

TITLE 20
STATE PRISON AND COUNTY JAILS

CHAPTER 2
STATE BOARD OF CORRECTION

20-201. DEPARTMENT OF CORRECTION CREATED. There is hereby created the department of correction which shall consist of the board of correction and the commission of pardons and parole. The department of correction shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of state government.

[20-201, added 1999, ch. 311, sec. 4, p. 777.]

20-201A. BOARD CREATED -- APPOINTMENT -- NONPARTISAN -- TERMS -- VACANCIES -- DELEGATION OF AUTHORITY. (1) There is hereby created a nonpartisan board of three (3) members to be known as the state board of correction, referred to in this chapter as the board, appointed by the governor to exercise the duties imposed by law. The board shall be the constitutional board of correction prescribed by section 5, article X, of the constitution of the state of Idaho. Not more than two (2) members shall belong to the same political party. Any person appointed a member of the board shall hold office for six (6) years. Vacancies in the membership of the board shall be filled in the same manner in which the original appointments are made.

(2) The board may transfer to the commission of pardons and parole any and all authority and power as it deems necessary to fulfill the duties, responsibilities and intent of this chapter and the other duties imposed upon it by law.

[(20-201A), added 1969, ch. 97, sec. 2, p. 329; am. 1974, ch. 6, sec. 1, p. 28; am. and redesig. 1999, ch. 311, sec. 5, p. 777.]

20-202. INTERIM APPOINTMENTS -- CHAIRMAN. In the event of death, removal or resignation of any member of the board, the governor shall appoint some competent person to serve during the unexpired term. The governor shall designate one (1) member of the board to serve as chairman.

[20-202, added 1947, ch. 53, sec. 2, p. 59; am. 1998, ch. 270, sec. 1, p. 899.]

20-203. REMOVAL OF MEMBERS -- GROUNDS -- HEARING AND PROCEEDINGS. The governor may not remove any member of the board except for disability, inefficiency, neglect of duty or malfeasance in office. Before such removal the governor shall give such member a written copy of the charges against him and shall fix the time when he can be heard in his defense which shall not be less than ten (10) days thereafter. If such member shall be removed, the governor shall file, in the office of the secretary of state, a complete statement of all charges made against such member and his findings thereon, with a record of the proceedings.

[20-203, added 1947, ch. 53, sec. 3, p. 59.]

20-204. POLITICAL ACTIVITY OF BOARD MEMBERS OR EMPLOYEES RESTRICTED. The members of the board of correction and its officers and employees shall not, at the time of appointment nor during their incumbency of office, serve as the representative, officer, or employee of any political party.

[20-204, added 1947, ch. 53, sec. 4, p. 59.]

20-205. QUALIFICATIONS OF BOARD OR BOARD MEMBERS. In the selection of members of the original board, and thereafter as vacancies occur in the appointment of successor member, the governor so appointing shall, so far as same is possible, select the members on the basis of their general background in business and administration.

[20-205, added 1947, ch. 53, sec. 5, p. 59; am. 1969, ch. 419, sec. 1, p. 1160.]

20-206. ORGANIZATION OF BOARD -- ELECTION OF VICE-CHAIRMAN AND SECRETARY, TERMS. At the first meeting after they have qualified for office, the board shall proceed to organize by the election of one (1) of their members as a vice-chairman and the other as secretary. Such officers shall serve during the succeeding biennium.

[20-206, added 1947, ch. 53, sec. 6, p. 59.]

20-207. OFFICE OF BOARD AT PENITENTIARY -- MEETINGS -- QUORUM -- MAJORITY VOTE. The state board of correction shall maintain an office at the penitentiary and shall meet at such times and places as may be necessary for the conduct of its business. Meetings may be held at the call of the chairman or a majority of the board but in no event shall they meet less than quarterly. A majority of the board shall constitute a quorum for the transaction of business and no order of the board shall be valid unless concurred in by at least two (2) of its members.

[20-207, added 1947, ch. 53, sec. 7, p. 59; am. 1969, ch. 97, sec. 3, p. 329.]

20-208. SALARIES AND EXPENSES OF BOARD MEMBERS. Each member of the state board of correction shall be compensated as provided by section 59-509(q), Idaho Code.

[20-208, added 1947, ch. 53, sec. 8, p. 59; am. 1951, ch. 217, sec. 1, p. 448; am. 1969, ch. 97, sec. 4, p. 329; am. 1980, ch. 247, sec. 5, p. 586; am. 2008, ch. 80, sec. 1, p. 208.]

20-209. CONTROL AND MANAGEMENT OF CORRECTIONAL FACILITIES AND PRISONERS -- REHABILITATIVE SERVICES -- RULES. (1) The state board of correction shall have the control, direction and management of such correctional facilities as may be acquired for use by the state board of correction and all property owned or used in connection therewith, and shall provide for the care, maintenance and employment of all prisoners now or hereinafter committed to its custody.

(2) The state board of correction may provide or facilitate research-based rehabilitative services at the discretion of the Idaho department of correction and as resources permit for incarcerated and community-based offenders. The rehabilitative services may include programs for behavioral modification, education, vocational education, sexual offenders, substance abuse, gender responsive programs and other programs that correctional research supports reduction of risk for offender populations. Nothing contained in this subsection shall create any right to rehabilitative services.

(3) The state board of correction shall have the authority to enter into contracts with private prison contractors for the site selection, design, design/building, acquisition, construction, construction management,

maintenance, leasing, leasing/purchasing, management or operation of private prison facilities or any combination of those services subject to the requirements and limitations set forth in section 20-241A, Idaho Code.

(4) The state board of correction shall have the authority to promulgate rules required by law or necessary or desirable to carry out all duties assigned to the department of correction pursuant to the provisions of chapter 8, title 20, Idaho Code, which authority shall include the power and duties to prescribe standards, rules and procedures for licensure of private prison contractors, to develop and provide, in conjunction with the department of administration, a uniform contract for use by local contracting authorities in contracting with private prison contractors, to review records and historical information of all prisoners proposed to be housed in private prison facilities and to approve or reject the housing of all prisoners, to monitor the status of insurance of private prison contractors, to approve suitable training programs for firearm certification for employees of private prison contractors and to approve suitable drug testing programs for prisoners housed with private prison contractors. All final decisions by the board shall be subject to review pursuant to the provisions and procedures of the administrative procedure act, chapter 52, title 67, Idaho Code.

(5) The state board of correction is authorized to provide medical and counseling services to those prisoners who have been exposed to the HIV (human immunodeficiency virus) which causes acquired immunodeficiency syndrome (AIDS) or who have been diagnosed as having contracted a human immunodeficiency viral disease.

(6) The state board of correction should provide educational and informational services to prisoners housed in Idaho and to its department employees in order to assure that the transmission of HIV within correctional facilities is diminished.

[20-209, added 1947, ch. 53, sec. 9, p. 59; am. 1970, ch. 143, sec. 6, p. 425; am. 1988, ch. 110, sec. 1, p. 199; am. 1997, ch. 223, sec. 1, p. 655; am. 2001, ch. 335, sec. 12, p. 1192; am. 2011, ch. 29, sec. 1, p. 71.]

20-209A. COMPUTATION OF TERM. When a person is sentenced to the custody of the board of correction, his term of confinement begins from the day of his sentence. The time during which the person is voluntarily absent from the penitentiary, jail, facility under the control of the board of correction, or from the custody of an officer after his sentence, shall not be estimated or counted as a part of the term for which he was sentenced.

[20-209A, added 1970, ch. 143, sec. 7, p. 425; am. 2015, ch. 99, sec. 3, p. 240.]

20-209B. DUTY TO CONTROL DISTURBANCES AT STATE PENITENTIARY. It shall be the primary duty of the state director of correction, or his designee, to prevent, control and suppress all riots, escapes, affrays and insurrections at the state penitentiary or other place maintained by the state board of correction which come to his knowledge, and to control and suppress all attempts to riot or escape.

The director of correction, or his designee, shall be primarily responsible for all security measures to be taken at the time of any riot, escape, affray or insurrection, or attempts to commit the same, at the state penitentiary or other place under the control of the state board of correction.

Any county sheriff, deputy sheriff or any person so acting, and all other law enforcement officers, shall be subject to the authority herein

conferred upon the director of correction, or his designee, and shall be subject to his direction and control during any riots, escapes, affrays, insurrections, or attempts to commit the same, at the state penitentiary or other place maintained by the state board of correction.

Nothing in this act shall preclude the use of any county sheriff or other law enforcement officers by the director of correction during any such existing emergency. If at any such time the director of correction shall find need for the assistance of any county sheriff or other law enforcement officers, the sheriff and such other officers may respond and render assistance at the direction of the director of correction.

For purposes of this section, a facility operated by a private prison contractor and housing prisoners pursuant to a contract between the contractor and the state board of correction, as set forth in section 20-241A, Idaho Code, shall be deemed to be maintained by or under the control of the state board of correction.

[20-209B, added 1973, ch. 169, sec. 1, p. 358; am. 2010, ch. 351, sec. 2, p. 915.]

20-209C. AUTHORITY TO DESIGNATE EMPLOYEES AS PEACE OFFICERS. All employees of the state board of correction who receive peace officer certification from the Idaho peace officer standards and training council shall have the authority given by statute to peace officers of the state of Idaho in accordance with the provisions of section 19-5109, Idaho Code. The state board of correction shall have the additional authority to designate other employees to act as peace officers when engaged in transportation of prisoners or apprehension of prisoners or wards who have escaped, or apprehension and arrest of persons who are suspected of having violated the terms and conditions of their probation or parole, or when present with and at the request of a local, state or federal law enforcement officer.

[(20-209C) 20-209B, as added by 1973, ch. 170, sec. 2, p. 360; redesignated as I.C. sec. 20-209C, 1979, ch. 205, sec. 1, p. 588; am. 1980, ch. 99, sec. 1, p. 219; am. 2005, ch. 131, sec. 3, p. 420; am. 2011, ch. 28, sec. 2, p. 70.]

20-209D. FORFEITURE OF CONTRABAND PROPERTY OR MONEY FOUND IN POSSESSION OF INMATES. The state board of correction, or its designee, shall have the authority to confiscate contraband money found in the possession of the inmates and thereafter deposit the money in the department of correction receipts account, and to dispose of other contraband property found in possession of inmates by donation to a nonprofit organization.

[20-209D, added 1979, ch. 205, sec. 2, p. 588; am. 1983, ch. 223, sec. 1, p. 619; am. 1989, ch. 213, sec. 1, p. 522.]

20-209E. PRISON DISCIPLINARY ACTION FOR FRIVOLOUS OR MALICIOUS COURT PROCEEDINGS. (1) In any action, whether filed in state, federal or administrative court, in which a prisoner submits a frivolous or malicious claim, or knowingly testifies falsely or otherwise knowingly presents false evidence or information to the court, the prisoner may be subject to prison disciplinary action. Such disciplinary action may be initiated upon the court's finding that:

- (a) The prisoner has filed a claim that is frivolous or malicious;
- (b) The prisoner filed a claim solely to harass the party;

(c) The prisoner has knowingly testified falsely or otherwise knowingly submitted false evidence or information to the court; or

(d) The prisoner has committed a fraud upon the court.

(2) In the absence of a finding by the court under subsection (1) of this section, and upon review and recommendation by the office of the attorney general, a disciplinary hearing may be held by the appropriate authority at the prison, pursuant to section 5, article X of the constitution of the state of Idaho, to determine whether the prisoner has filed a claim that is malicious or intended solely to harass the party, or has testified falsely or otherwise presented false evidence or information to the court.

(3) Upon a finding of guilt under either subsection (1) or (2) of this section, the prisoner shall be subject to prison disciplinary detention and loss of privileges consistent with established prison disciplinary procedures.

[20-209E, added 1996, ch. 420, sec. 3, p. 1400.]

20-209F. WARRANTS FOR CERTAIN FUGITIVES. (1) The director of the department of correction or his designee shall have the authority to apply to the magistrates division of the district court of Ada county for a warrant for the arrest, detention and return to custody of any person committed to the custody of the department of correction under a judgment of conviction who, prior to satisfying the full term of his judgment of conviction and sentence, has either:

(a) Escaped or absconded from the custody or supervision of the department; or

(b) Been released for any reason by the department or by any law enforcement agency, department of correction or other agency in this state or another state.

(2) The magistrate shall issue a warrant upon submission by the director or his designee of an affidavit that:

(a) Identifies the person sought;

(b) Demonstrates that such person has been committed to the custody of the department of correction under a judgment of conviction; and

(c) Demonstrates that, prior to satisfying the full term of his judgment of conviction and sentence, the person sought has either:

(i) Escaped or absconded from the custody or supervision of the department; or

(ii) Been released for any other reason by the department or by any law enforcement agency, department of correction or other agency in this state or another state.

(3) Any person who is arrested and detained pursuant to this section shall be ineligible for bond, bail or release on his own recognizance.

(4) Any person arrested and detained pursuant to this section shall have the right to a hearing to confirm that:

(a) He is the person identified in the warrant; and

(b) An unsatisfied portion of his judgment of conviction and sentence remains to be served.

(5) A warrant issued pursuant to this section shall remain in effect until:

(a) The warrant is quashed by order of a court;

(b) The person identified in the warrant is returned to the custody of the department of correction; or

(c) The sentence of the person identified in the warrant is otherwise deemed satisfied.

(6) The issuance of a warrant pursuant to this section shall not negate or interfere with the issuance of warrants under any other provision of law.

(7) A warrant issued pursuant to this section shall be sufficient for any peace officer to arrest, detain and return to the custody of the department of correction any person described in the warrant. It shall be the duty of all peace officers to execute the warrant in the same manner as ordinary process and to return any person arrested pursuant to this section to the custody of the department of correction.

(8) A person who is detained pursuant to a warrant issued under this section may apply for an order quashing the warrant. An action to quash a warrant issued under this section may be brought in Ada county, Idaho or in the county in Idaho in which a person arrested under such a warrant is detained. A warrant issued under this section shall be quashed upon a showing that the person sought or detained is not the person identified in the warrant or that the person's sentence has been completed or has otherwise been deemed satisfied.

[20-209F, added 2002, ch. 130, sec. 2, p. 360.]

20-209G. AUTHORITY TO INVESTIGATE AND ISSUE SUBPOENAS. (1) For purposes of this section, the following definitions shall apply:

(a) "Correctional facility" means any prison, correctional facility or mental health facility operated by the department of correction and any public or private correctional facility in which department of correction prisoners are housed pursuant to contract, including a county jail;

(b) "Department of correction prisoner" means any person housed in a correctional facility who has been committed to the custody of or who is under the supervision of the department of correction by way of a judgment of conviction or court order, including the following:

(i) Prisoners committed to the department to serve criminal sentences;

(ii) Persons committed in relation to their fitness to proceed at trial pursuant to section 18-212, Idaho Code;

(iii) Prisoners over whom a court has retained jurisdiction pursuant to section 19-2601 4., Idaho Code;

(iv) Prisoners serving discretionary jail time as probationers or parolees;

(v) Parolees arrested pursuant to sections 20-227 and 20-228, Idaho Code, and are awaiting a determination regarding violation or revocation of their parole;

(vi) Civil commitments pursuant to section 66-329, Idaho Code; and

(vii) Persons committed to the Idaho security medical program pursuant to section 66-1301, Idaho Code.

(c) "Documents" means any writings, charts, records, recordings, electronic records or data, photographs, tangible things, drawings or diagrams of any sort whatsoever.

(2) In furtherance of the duties set forth in this chapter and department of correction rules, the director of correction shall have the authority to:

(a) Investigate crimes, criminal enterprises or conspiracies, violations of state law or administrative regulations, disturbances, riots and the introduction of contraband into a correctional facility, where such activities involve department of correction prisoners;

(b) Investigate waste, mismanagement of state resources and violations of laws, regulations, policies, directives or procedures by employees of the department of correction; and

(c) Issue subpoenas for the production of documents which may be relevant to such investigations.

(3) If a custodian of documents refuses to produce any document required by a subpoena issued pursuant to subsection (2) of this section, the director of correction may petition the district court in the county in which the custodian resides or does business, setting forth by way of sworn affidavit the reasons supporting issuance of the subpoena and why the documents sought are necessary for the investigation, that due notice has been given of the time and place of production of said documents, that the custodian has been properly summoned and that the custodian has failed and refused to produce documents required by the subpoena and may request an order compelling the custodian to produce the documents.

(4) Upon the filing of such petition and affidavit, the court shall enter an order directing the custodian of documents to appear before the court at a time fixed by the court, but not more than ten (10) court days from the date of the order, and to show cause why the custodian has not produced the documents and why he should not be required to produce the documents. The court shall serve a copy of the order upon the custodian. If it appears to the court that the petition is adequately supported by affidavit, the subpoena was regularly issued by the director of correction and regularly served upon the custodian, and that there is not good cause for the custodian's failure to produce the documents, the court shall order the custodian to produce the required documents at a time and place fixed by the court. If the custodian fails to obey the court's order, he shall be dealt with for contempt of court.

(5) When documents are sought from a custodian who is not a resident of this state or who has his principal place of business in another state, the director of correction is authorized to obtain subpoenas issued by the clerk of the district court of Ada county. The clerk of the district court shall open a court file, provide a case number and issue the subpoena under the seal of the court. The subpoena shall specify those documents required to be produced.

(6) The department of correction shall cooperate with local law enforcement and other local, state or federal law enforcement agencies during the conduct of any investigation arising out of the powers and duties set forth in this section.

[20-209G, added 2009, ch. 45, sec. 1, p. 126.]

20-209H. DUTY TO ESTABLISH INMATE ACCOUNTS -- PAYMENT OF RESTITUTION. The state board of correction shall establish an account in the name of each inmate confined in a correctional facility. All moneys in the inmate's possession upon admission, all moneys earned from institutional employment and all moneys received by the inmate from any other source, other than money that is contraband, shall be deposited in the inmate's account. If the court ordered an inmate to make restitution under section 19-5304, Idaho Code, and the restitution is still owing, then twenty percent (20%) of each deposit in the inmate's account shall be paid to the state board of correction who

shall, within five (5) days after the end of the month, pay such moneys to the clerk of the court in which the restitution order was entered for payment to the victim. The provisions of this section shall apply to any inmate confined in a correctional facility on or after the effective date of this section.

[20-209H, added 2014, ch. 150, sec. 6, p. 420.]

20-210. COMMISSION OF PARDONS AND PAROLE -- APPOINTMENT -- QUALIFICATIONS -- TERMS -- SALARY -- STAFF. The governor shall appoint a state commission of pardons and parole, each member of which shall be subject to the advice and consent of the senate, in this chapter referred to as the commission, which shall succeed to and have all rights, powers and authority of said board of pardons as are granted and provided by the provisions of the constitution of the state of Idaho.

The commission shall be composed of seven (7) members. The members shall serve at the pleasure of the governor and not more than four (4) members shall be from any one (1) political party.

The members of the commission shall be appointed for the purposes of organization as follows: Members on the commission on the effective date of this act, shall serve out the remainder of their terms; thereafter, as members' terms expire, the governor shall reappoint them or appoint new members to serve terms of three (3) years; vacancies in the commission for unexpired terms shall be by appointment by the governor for the remainder of the term and all appointees may be reappointed.

The commission and the board may meet as necessary to exchange such information to enable each to effectively carry out their respective duties.

The commission shall meet at such times and places as determined to be necessary and convenient, or at the call of the executive director and in any event no less than quarterly.

Two (2) members of the commission may meet to make decisions on the disposition of parole violations. Such decisions must be unanimous, and in the event they are not unanimous then the parole violation disposition decision will be made by a majority of the full commission either at the next quarterly meeting or special meeting.

Three (3) members of the commission may meet to make decisions to grant or deny parole. Such decisions must be unanimous, and in the event they are not unanimous then the decision to grant or deny parole will be made by a majority of the full commission at the next quarterly meeting.

The members shall be compensated as provided by section 59-509(i), Idaho Code, when attending quarterly meetings conducted at a date and time separate from a hearing session or other meetings approved by the executive director. The members shall receive compensation of three hundred dollars (\$300) per member per day when conducting parole, commutation, pardon, revocation or other hearings, and shall be reimbursed for actual and necessary expenses subject to the limitations provided in section 67-2008, Idaho Code.

The governor will liberally allow the reasonable payment for services of such technical and professional advice and consultation as the commission may require. The governor shall appoint the executive director for the commission. The executive director shall be the full-time employee who shall report to, serve at the pleasure of, and be compensated as determined by the governor. The executive director shall be the official representative for the commission, shall be responsible for the managing and administration of daily commission business and shall schedule hearing sessions at times con-

venient to the members of the commission. For each scheduled session, the executive director shall designate one (1) of the members of the commission as the presiding officer for conducting the hearings. The executive director may hire such staff and employees as are approved by the governor. The executive director shall also have such other duties and responsibilities as the governor shall assign.

[20-210, added 1947, ch. 53, sec. 10, p. 59; am. 1969, ch. 97, sec. 5, p. 329; am. 1974, ch. 6, sec. 2, p. 28; am. 1980, ch. 247, sec. 6, p. 586; am. 1991, ch. 166, sec. 1, p. 406; am. 1994, ch. 171, sec. 1, p. 383; am. 1998, ch. 355, sec. 1, p. 1113; am. 1999, ch. 311, sec. 1, p. 772; am. 2007, ch. 102, sec. 1, p. 306; am. 2017, ch. 182, sec. 1, p. 415.]

20-210A. COMMISSION OF PARDONS AND PAROLE -- DUTIES AND POWERS. The commission of pardons and parole shall:

(1) Have the powers relating to commutation, pardon and remission of fines and forfeitures as set forth in section 7, article IV, of the Idaho constitution;

(2) Subject to and consistent with the provisions of this chapter and section 19-2513, Idaho Code, decide whether any prisoner who is eligible for parole may be released on parole;

(3) Subject to and consistent with the provisions of this chapter and section 19-2513, Idaho Code, and in compliance with chapter 52, title 67, Idaho Code, promulgate rules to establish the procedures under which any eligible prisoner may be released on parole;

(4) Specify in writing the conditions of parole for every prisoner released on parole and provide every prisoner released on parole with a copy of the conditions of parole;

(5) Subject to and consistent with the provisions of this chapter, issue orders of final discharge from parole for eligible parolees; and

(6) Carry out all other duties and powers relating to the commission as set forth in Idaho Code.

[20-210A, added 2014, ch. 150, sec. 7, p. 420.]

20-211. RECORDS, FUNDS AND PROPERTY OF SUPERSEDED AGENCIES -- DELIVERY TO BOARD OF CORRECTIONS [CORRECTION]. From and after the taking effect of this act, the state board of correction shall succeed to and be in possession and control of all records, accounts, books, papers, equipment, supplies, funds, and other property, real and personal, in possession of or under the control of any office, board, commission, agency, deputy or employee herein abolished or superseded. Immediately after notice of the appointment, qualification, and organization of the state board of correction, the director of correction and every other state officer or employee then having in his possession or under his control any property, real or personal, any records, and funds of whatever kind or character for the use and benefit of the penitentiary or the administration thereof, shall proceed to prepare and within ten (10) days thereafter to submit a full and complete inventory of all property and records so held to said board of correction, together with possession of said records and property as said board of correction shall direct.

[20-211, added 1947, ch. 53, sec. 11, p. 59; am. 1974, ch. 6, sec. 3, p. 28.]

20-212. RULES -- AUTHORITY OF BOARD. (1) The state board of correction shall make all necessary rules to carry out the provisions of this chapter

not inconsistent with express statutes or the state constitution and to carry out those duties assigned to the department of correction pursuant to the provisions of chapter 8, title 20, Idaho Code. The board shall fix the time and place of meetings, the order of business, the form of records to be kept, the reports to be made, and all other rules necessary to the efficient management and control of the state penitentiary and all properties used in connection therewith. All rules of the board shall be subject to review of the legislature pursuant to sections 67-454, 67-5291 and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the board, except as otherwise specifically provided by statute. When making rules required by this section, the board or the department shall submit the rules to the office of the state administrative rules coordinator, in a format suitable to the office of the state administrative rules coordinator as provided in section 67-5202, Idaho Code, and the board or department shall pay all the fees provided in section 67-5205, Idaho Code. The office of the state administrative rules coordinator is authorized and shall publish the board or department's rules in the administrative bulletin. Additionally, whenever the board or department desires to amend, modify or repeal any of its rules, it shall follow the procedure provided in this section. All rules, or the amendment or repeal of rules shall be effective thirty (30) days after the date of publication by the office of the administrative rules coordinator. If the board determines that the rules need to be effective at a sooner date, they shall issue a proclamation indicating that the public health, safety and welfare is in jeopardy and, if the governor agrees, the rules shall be effective upon the governor signing the proclamation.

(2) "Rule" as used in this section means the whole or a part of the board of correction or department of correction's statement of general applicability that has been promulgated in compliance with the provisions of this section and that implements, interprets or prescribes:

(a) Law or policy; or

(b) The procedure or practice requirements of the board or department. The term includes the amendment, repeal, or suspension of an existing rule, but does not include:

(i) Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; or

(ii) Declaratory rulings issued pursuant to statute or the board's rules; or

(iii) Intra-department memoranda; or

(iv) Any written statements given by the department or board which pertain to an interpretation of a rule or to the documentation of compliance with a rule.

(3) At the same time that the proclamation of rulemaking is filed with the coordinator, the board or department shall provide the same notice, accompanied by the full text of the rule under consideration in legislative format, as well as a statement of the substance of the intended action, to the director of legislative services. If the rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services. The director of legislative services shall analyze and refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code.

(4) The board or department shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to a rule if the germane joint subcommittee files a written request with the board or department for such a statement. The statement shall contain an evaluation of the costs and benefits of the rule, including any health, safety, or welfare costs and benefits. The adequacy of the contents of the statement of economic impact is not subject to judicial review.

[20-212, added 1947, ch. 53, sec. 12, p. 59; am. 1999, ch. 311, sec. 3, p. 775; am. 2000, ch. 228, sec. 1, p. 641; am. 2001, ch. 335, sec. 13, p. 1193.]

20-213. MEETINGS AS STATE COMMISSION OF PARDONS AND PAROLES -- NOTICE, PUBLICATION, CONTENTS. The commission shall meet at such times and places as it may prescribe, but not less than quarterly. If applications for pardon or commutation are scheduled to be considered at such meeting, notice shall be published in some newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks, immediately prior thereto. Such notices shall list the names of all persons making application for pardon or commutation and a copy of such notice shall immediately, upon the first publication thereof, be mailed to each prosecuting attorney of any county from which any such person was committed to the penitentiary, and provided further that the commission may in its discretion consider but one (1) application for pardon or commutation from any one (1) person in any twelve (12) month period.

[20-213, added 1947, ch. 53, sec. 13, p. 59; am. 1951, ch. 118, sec. 1, p. 273; am. 1969, ch. 419, sec. 2, p. 1160; am. 1980, ch. 297, sec. 1, p. 769.]

20-213A. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AUTHORIZED -- REPORT REQUIRED. (1) All meetings and hearings of the commission of pardons and parole shall be held in accordance with the open meetings law as provided in chapter 2, title 74, Idaho Code, except:

(a) An initial review of an application for a request for parole, pardon, commutation or firearm restoration may be held in executive session. The executive session shall be limited to a decision as to whether a hearing should be granted;

(b) When a hearing is granted, it will be conducted in open session. Pursuant to section 74-206, Idaho Code, deliberations and voting concerning the granting, revoking, reinstating or refusing of paroles; the granting or denying of pardons or commutations; or the granting or denying of firearm restorations shall be made in executive session;

(c) Votes of individual members in arriving at the parole, pardon, firearm restoration or commutation decisions shall not be made public, provided that the commission shall maintain a record of the votes of the individual members as required in subsection (2) of this section; and

[(d)] (c) Meetings of less than a majority of the commission to make decisions concerning the grant or denial of parole or the disposition of parole violations as provided in section 20-210, Idaho Code.

(2) A written record of the vote to grant or deny parole, pardon, firearm restoration or commutation by each commission member in each case reviewed by that member shall be made by the commission. The record produced by the commission pursuant to this section shall be kept confidential and privileged from disclosure, provided the record shall be made available,

upon request, to the governor or the governor's representative, the chairman and most senior minority member of the senate judiciary and rules committee and the chairman and most senior minority member of the house of representatives judiciary, rules and administration committee, for all lawful purposes. All committee members and representatives of the governor's office shall keep such record confidential. Distribution of the report by a commissioner or an employee of the executive director to any person not specifically listed in this section shall be a misdemeanor.

(3) Nothing contained in this section shall prevent any person from obtaining the results of any parole, pardon, firearm restoration or commutation action by the commission without reference to the manner in which any member voted, and the commission shall make such information public information.

(4) Nothing contained herein shall prevent the executive director for the commission or designated staff of the executive director from attending any meeting, including an executive session of the commission of pardons and parole.

(5) Nothing contained herein shall prevent the governor, the governor's representative, chairman and most senior minority member of the senate judiciary and rules committee and the chairman and most senior minority member of the house of representatives judiciary, rules and administration committee from attending any meeting, including an executive session of the commission of pardons and parole.

[20-213A, added 1986, ch. 59, sec. 1, p. 168; am. 1988, ch. 29, sec. 1, p. 37; am. 1990, ch. 213, sec. 14, p. 499; am. 1992, ch. 278, sec. 1, p. 855; am. 1994, ch. 171, sec. 2, p. 384; am. 2000, ch. 362, sec. 1, p. 1199; am. 2017, ch. 58, sec. 9, p. 105; am. 2017, ch. 182, sec. 2, p. 416; am. 2017, ch. 217, sec. 1, p. 532.]

20-214. ASSISTANTS AND OFFICERS. The state board of correction shall have power and authority to employ, to specify the training, and to fix the duties of such assistants, officers and other persons necessary for the proper and efficient administration of the department of correction and the property used in connection therewith, for the administration of the parole and probation system, and generally for the carrying out of the provisions of this act, subject to the provisions of chapter 53, title 67, Idaho Code.

[20-214, added 1947, ch. 53, sec. 14, p. 59; am. 1974, ch. 6, sec. 4, p. 28; am. 2001, ch. 16, sec. 1, p. 20.]

20-216. RECORDS, REPORTS AND STATISTICS. (1) The board shall keep a record of and require reports from all persons on parole or probation and enforce observance of rules and regulations for parole or probation established by the commission or the courts. It shall prepare and publish reports and statistics relating to probation and parole and it shall submit to the governor, at such times as the governor may direct, but at least annually, a full and complete report of the board and its agents, showing the disposition of all cases coming before the board or the commission and such additional information relating thereto as the governor may request.

(2) The board and the department of health and welfare shall submit a joint report to the legislature by January 15 each year analyzing:

(a) The criminogenic needs of the active population of probationers and parolees;

(b) Current funding available to deliver effective, evidence-based programming to address those needs; and

(c) Any gap in funding to meet the treatment needs of all moderate and high-risk probationers and parolees.

(3) By November 15, 2015, and biennially on November 15 thereafter, the board shall develop and deliver a report to the governor and the legislature on the programs to reduce recidivism that are funded by the state. Subject to the availability of moneys, the board may contract with an independent contractor or academic institution for this purpose. The report shall include an evaluation of the quality of each program and its likelihood to reduce recidivism among program participants and shall include a plan for program improvements by the board. The program evaluations shall ensure that treatment programs are delivering services in a way that aligns with the scientifically based research to reduce recidivism. Program evaluation shall be standardized and a validated program assessment tool shall be used. Each program evaluation shall include a site visit and interviews with key staff, interviews with offenders, group observation and file and material review. The information shall be compiled into a composite score indicating adherence to concepts that are linked with program effectiveness, such as program development, program procedures, staff, offender assessment, treatment processes and programs and quality assurance. Program evaluation should also include feedback to the program concerning strengths, weaknesses and recommendations for better adherence to scientifically based research and the principles of effective intervention.

(4) For the purposes of this section:

(a) "Program" means a treatment or intervention program or service that is intended to reduce the propensity of a person to commit crimes or improve the mental health of a person with the result of reducing the likelihood that the person will commit a crime or need emergency mental health services. "Program" does not mean or include an educational program or service that an agency is required to provide to meet educational requirements imposed by state law or a program that provides basic medical services.

(b) "Scientifically based research" means research that obtains reliable and valid knowledge by:

(i) Employing systematic, empirical methods that draw on observation or experiment;

(ii) Involving rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; and

(iii) Relying on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations and across studies by the same or different investigators.

[20-216, added 1947, ch. 53, sec. 16, p. 59; am. 1969, ch. 419, sec. 4, p. 1160; am. 1980, ch. 297, sec. 2, p. 769; am. 2014, ch. 150, sec. 8, p. 420.]

20-217A. APPOINTMENT OF DIRECTOR -- SALARY -- POWERS AND DUTIES. The board shall appoint a director of correction, referred to in this chapter as the director, of the Idaho state penitentiary whose salary shall be determined and set by the board. The director shall be the chief administrative officer for the board and business manager of the penitentiary and the

properties used in connection therewith. The director shall assume all the authority, powers, functions and duties as may be delegated to him by the board.

[I.C., sec. 20-217A, as added by 1967, ch. 364, sec. 2, p. 1052; am. 1969, ch. 97, sec. 6, p. 329.]

20-218. ANNUAL REPORTS OF RECEIPTS AND EXPENDITURES. The state board of correction shall annually submit to the governor and the state budget officer a full, true, and correct report of all moneys received and expended by it for correctional services.

[20-218, added 1947, ch. 53, sec. 18, p. 59; am. 1974, ch. 6, sec. 5, p. 28; am. 1980, ch. 297, sec. 3, p. 769.]

20-219. PROBATION AND PAROLE SUPERVISION AND TRAINING -- LIMITED SUPERVISION -- RULEMAKING. (1) The state board of correction shall be charged with the duty of:

- (a) Supervising all persons convicted of a felony placed on probation to the board;
- (b) Supervising all persons released from the state penitentiary on parole;
- (c) Supervising all persons convicted of a felony released on parole or probation from other states and residing in the state of Idaho;
- (d) Program delivery, as "program" is defined in section 20-216, Idaho Code, to all persons under its probation or parole supervision based on individual criminal risk factors and specific needs;
- (e) Making such investigations as may be necessary;
- (f) Reporting alleged violations of parole in specific cases to the commission to aid in determining whether the parole should be continued or revoked;
- (g) Reporting alleged violations of the terms or conditions of probation in specific cases to the court and the prosecuting attorney to aid in determining whether the probation should be continued or revoked;
- (h) Preparing a case history record of the prisoners to assist the commission or the courts in determining if they should be paroled or should be released on probation; and
- (i) Supervising juveniles convicted as adults with a blended sentence pursuant to and in the manner described in section 19-2601A, Idaho Code.

(2) Any person placed on probation or parole and who has been designated as a violent sexual predator pursuant to chapter 83, title 18, Idaho Code, shall be monitored with electronic monitoring technology for the duration of the person's probation or parole period. Any person who, without authority, intentionally alters, tampers with, damages, or destroys any electronic monitoring equipment shall be guilty of a felony.

(3) The state board of correction shall have the discretion to determine the level of supervision of all persons under its supervision, except those who are being supervised by a problem solving court. "Level of supervision" includes the determination of the following:

- (a) The frequency, location, methods and nature of contact with the supervising officer;
- (b) Testing requirements and frequency;
- (c) Contact restrictions;
- (d) Curfew restrictions; and
- (e) Reporting requirements.

(4) Subject to the availability of moneys, caseloads for supervising officers who are supervising offenders determined by the department of correction's validated risk assessment to be high or moderate risk of rearrest should not exceed an average of fifty (50) offenders per supervising officer.

(5) In carrying out its duty to supervise felony probationers and parolees, the state board of correction shall use evidence-based practices, shall target the offender's criminal risk and need factors with appropriate supervision and intervention and shall focus resources on those identified by the board as moderate-risk and high-risk offenders. The supervision shall include:

(a) Use of validated risk and needs assessments of the offender that measure criminal risk factors, specific individual needs and driving variable supervision levels;

(b) Use of assessment results to guide supervision responses consistent with evidence-based practices as to the level of supervision and the practices used to reduce recidivism;

(c) Collateral and personal contacts with the offender and community that may be unscheduled and which shall occur as often as needed based on the offender's supervision level and risk of reoffense and based on the need to stay informed of the offender's conduct, compliance with conditions and progress in community-based intervention;

(d) Case planning for each offender assessed as moderate to high risk to reoffend; and

(e) Use of practical and suitable methods that are consistent with evidence-based practices to aid and encourage the offender to improve his or her conduct and circumstances so as to reduce the offender's risk of recidivism.

(6) The state board of correction shall provide all supervising officers with initial and ongoing training and professional development services to support the implementation of evidence-based supervision practices. All supervising officers employed as of the effective date of this section shall complete the training requirements set forth in this subsection on or before July 1, 2016. All supervising officers hired after the effective date of this section shall complete the training requirements set forth in this subsection within two (2) years of their hire date. The training and professional development services shall include:

(a) Assessment techniques;

(b) Case planning;

(c) Risk reduction and intervention strategies;

(d) Effective communication skills;

(e) Behavioral health needs;

(f) Application of core correctional practices, including motivational interviewing, cognitive restructuring, structured skill building, problem solving, reinforcement and use of authority;

(g) Training for supervising officers to become trainers so as to ensure long-term and self-sufficient training capacity in the state; and

(h) Other topics identified by the board as evidence-based practices.

(7) The state board of correction shall promulgate rules in consultation with the Idaho supreme court to:

(a) Establish a program of limited supervision for offenders who qualify addressing eligibility, risk and needs assessments, transfers

among levels of supervision and reporting to the court and the prosecuting attorney.

(b) Establish a matrix of swift, certain and graduated sanctions and rewards to be imposed by the board, without the necessity of a hearing, in response to corresponding violations of or compliance with the terms or conditions imposed. Sanctions for violations shall include, but are not limited to, community service, increased reporting, curfew, submission to substance use assessment, monitoring or treatment, submission to cognitive behavioral treatment, submission to an educational or vocational skills development program, submission to a period of confinement in a local correctional facility for no more than three (3) consecutive days and house arrest. Rewards for compliance shall include, but are not limited to, decreased reporting and transfer to limited supervision.

[20-219, added 1947, ch. 53, sec. 19, p. 59; am. 1980, ch. 297, sec. 4, p. 770; am. 1993, ch. 101, sec. 2, p. 256; am. 2008, ch. 65, sec. 1, p. 168; am. 2014, ch. 150, sec. 9, p. 422; am. 2015, ch. 113, sec. 5, p. 286; am. 2017, ch. 182, sec. 3, p. 416.]

20-219A. IMPERSONATING A PROBATION/PAROLE OFFICER, A PRESENTENCE INVESTIGATOR OR CORRECTIONAL OFFICER -- OFFICIAL BADGE AND IDENTIFICATION CARD. (1) Any person who for himself or as an agent or representative of another in this state who shall unlawfully exercise or attempt to exercise the functions of, or hold themselves out to anyone as, a probation/parole officer, a presentence investigator or correctional officer, whether acting in his own behalf as an official of the court or correction, or as the authorized or unauthorized agent or representative of another, is punishable by a fine not exceeding five thousand dollars (\$5,000) or imprisonment in the county jail not exceeding one (1) year, or both.

(2) It is a misdemeanor for any person who is not authorized and commissioned by the director of correction, to wear, exhibit or display in public an official badge, official uniform of a correctional officer, or identification card of the department of correction of the state of Idaho, and is punishable by a fine not exceeding five thousand dollars (\$5,000), or imprisonment in the county jail not exceeding one (1) year, or both.

[20-219A, added 1982, ch. 104, sec. 1, p. 285.]

20-220. INVESTIGATION AND EXAMINATION TO PRECEDE PROBATION OR SUSPENSION OF SENTENCE. When a probation and parole officer is available to the court, no defendant shall be placed on probation until a written report of investigation by a parole and probation officer shall have been presented to and considered by the court, and no defendant charged with a felony or indictable offense shall be released under suspension of sentence without such investigation. The parole and probation officer shall inquire into the circumstances of the offense, criminal record, social history and present condition of the defendant. Whenever practicable, such investigation shall include a physical and mental examination of the defendant. If a defendant is committed to any institution, the probation officer shall send a report of such investigation to the institution at the time of commitment.

[20-220, added 1947, ch. 53, sec. 20, p. 59.]

20-221. MODIFICATION OF TERMS OR CONDITIONS OF PROBATION OR SUSPENSION OF SENTENCE -- TERMINATION OF PROBATION. (1) By order duly entered the court

may impose and may at any time modify any terms or conditions of probation or suspension of sentence. The court shall cause a copy of any such order to be delivered to the board of correction, to the prosecuting attorney and to the probationer.

(2) Any party or the board of correction may submit to the court a request to modify the terms and conditions of probation for any probationer under the board's supervision at any time during the period of probation. A request to modify the terms and conditions of probation shall be supported by a statement attested to under oath or signed under penalty of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts upon which the request is based. The requesting party or the board, as the case may be, shall deliver a copy of the request and statement to all parties and to the board. The prosecuting attorney shall notify the victim of the request to modify the terms and conditions of probation. Any responses to a request to modify shall be filed within thirty (30) days of the date of submittal of the request. The court may, without a hearing, rule upon a request to modify based on a review of the case, the request, the statement and any responses to the request, or may schedule a hearing on the request to modify. The court shall by written order rule on the request to modify within sixty (60) days of the date of submittal of the request.

(3) Any party or the board of correction may submit to the court a request to terminate the probation for any probationer under the board's supervision at any time during the period of probation. A request to terminate probation shall be supported by a statement attested to under oath or signed under penalty of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts upon which the request is based. The requesting party or the board, as the case may be, shall deliver a copy of the request and statement to all parties and to the board. The prosecuting attorney shall notify the victim of a request to terminate probation. Any responses to a request to terminate probation shall be filed within thirty (30) days of the date of submittal of the request. The court may, without a hearing, rule upon a request to terminate based on a review of the case, the request, the statement and any responses to the request, or may schedule a hearing on the request to terminate. The court shall rule on the request within sixty (60) days of the date of submittal of the request. A court order granting a request to terminate probation under this subsection shall be deemed a final discharge from the remaining period of probation.

[20-221, added 1947, ch. 53, sec. 21, p. 59; am. 2014, ch. 150, sec. 10, p. 423.]

20-222. FIXED PERIOD OF PROBATION OR SUSPENSION OF SENTENCE -- REARREST AND REVOCATION. (1) The period of probation or suspension of sentence shall be fixed by the court and may at any time be extended or terminated by the court. Such period with any extension thereof shall not exceed the maximum period for which the defendant might have been imprisoned.

(2) At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Thereupon the court, after summary hearing may revoke the probation and suspension of sentence and cause the sentence imposed to be executed, or may cause the defendant to be brought before it and may continue or revoke the probation, or may impose any sentence which originally might have been imposed at the time of conviction. In making a determination to continue or revoke probation and

suspension of sentence, the court shall consider the defendant's risks and needs and options for treatment in the community.

[20-222, added 1947, ch. 53, sec. 22, p. 59; am. 1986, ch. 311, sec. 1, p. 762; am. 2014, ch. 150, sec. 11, p. 424.]

20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (1) It is the intent of the legislature to focus prison space on those who commit the most serious offenses or who have the highest likelihood of offending in the future, and the commission, consistent with the provisions of this subsection, shall promulgate rules that establish clear guidelines and procedures that retain the commission's discretion in individual cases.

(2) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission.

(3) Any prisoner who is granted parole under the interstate compact may be required to post a bond prior to release or prior to such acceptance under the interstate compact; such bond may be posted by the prisoner, the prisoner's family, or other interested party. Failure to successfully complete parole may be grounds for forfeiture of the bond. Upon successful completion of parole, the amount of the bond may be returned, less an amount for administrative costs as determined by commission rule, in compliance with chapter 52, title 67, Idaho Code. A request must be made for return of the bond within one (1) year of discharge of the offense for which the particular offender was serving parole. Funds collected through the bonding process will be placed in a separate commission receipts fund which is hereby created in the state treasury and utilized for the extradition of parole violators.

(4) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any such crimes, or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one (1) or more psychiatrists or psychologists or mental health professionals designated for this purpose by the department of correction to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No person making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

(5) Before considering the parole of any prisoner, the commission shall ensure that a risk assessment has been conducted pursuant to section 20-224, Idaho Code, and shall afford the prisoner the opportunity to be interviewed by the commission, a commissioner or other designated commission staff. A designated report and risk assessment, prepared by commission staff or a designated department of correction employee, that is specifically to be used by the commission in making a parole determination shall be exempt from public disclosure; such reports contain information from the presentence investigation report, medical or psychological information, the results

of a risk assessment, victim information, designated confidential witness information and criminal history information. A parole shall be ordered when, in the discretion of the commission, it is in the best interests of society, and the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. Such determination shall not be a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. The commission may also by its rules fix the times and conditions under which any application denied may be reconsidered. No action may be maintained against the commission and/or any of its members in any court in connection with any decision taken by the commission to parole a prisoner and neither the commission nor its members shall be liable in any way for its action with respect thereto.

(6) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the current risk assessment, criminal history, program participation, compliance and completion, institutional misconduct and other individual characteristics related to the likelihood of offending in the future, as well as the compliance of the prisoner with any order of restitution which may have been entered according to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.

(7) Except as provided in subsection (2) of this section, no provision of chapter 52, title 67, Idaho Code, shall apply to the commission.

(8) Subject to the limitations of this subsection and notwithstanding any fixed term of confinement or minimum period of confinement as provided in section 19-2513, Idaho Code, the commission may parole an inmate for medical reasons. A prisoner may be considered for medical parole only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. For the purposes of this section, "permanently incapacitated" shall mean a person who, by reason of an existing physical condition that is not terminal, is permanently and irreversibly physically incapacitated. For the purposes of this section "terminally ill" shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill.

(9) The commission shall prepare and send to the house of representatives and senate judiciary committees annually a report containing the names, medical condition and current status of all persons granted parole pursuant to subsection (8) of this section.

(10) The department of correction shall promulgate rules in consultation with the commission to prepare prisoners for parole. The department of correction shall create sufficient programming opportunities, such that lack of access to programming is not the primary cause in delaying parole eligibility. The department shall promulgate rules to include case plan development upon entry into prison and a current risk assessment before all parole hearings.

(11) By February 1, 2015, and by February 1 of each year thereafter, the department of correction and the commission shall submit a report to the legislature and governor that describes the most common reasons for delay or denial of release, including statistical data supporting the conclusions of the report.

[20-223, added 1980, ch. 297, sec. 6, p. 770; am. 1985, ch. 122, sec. 6, p. 302; am. 1986, ch. 232, sec. 5, p. 640; am. 1989, ch. 369, sec. 1, p. 926; am. 1993, ch. 106, sec. 1, p. 271; am. 1998, ch. 327, sec. 1, p. 1055;

am. 1999, ch. 326, sec. 1, p. 834; am. 2000, ch. 368, sec. 3, p. 1221; am. 2006, ch. 251, sec. 1, p. 760; am. 2013, ch. 241, sec. 1, p. 569; am. 2014, ch. 150, sec. 12, p. 424; am. 2017, ch. 182, sec. 4, p. 418.]

20-224. INFORMATION REGARDING PRISONERS TO BE SECURED. (1) Within six (6) months after his admission and at such intervals thereafter as it may determine, the board shall secure all pertinent available information regarding each prisoner, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and reports of such physical and mental examinations as have been made to assist the board in prescribing treatment for such person while in confinement and to assist the commission in its deliberations. The board and the commission shall attempt to inform themselves as to such inmate as a personality and may seek from the sentencing judge, prosecuting attorney, defense counsel and law enforcement authorities such information of which they may be possessed relative to the convicted person and the crime for which he was committed. An electronic recording or transcript of the comments and arguments required to be recorded by section 19-2515, Idaho Code, shall be submitted to the board, made available to the commission, and shall be considered by the commission in making a parole or commutation decision with respect to the prisoner.

(2) The board of correction shall use a validated risk assessment to determine, for each prisoner, the risk of reoffense and suitability for release. For purposes of this subsection, "validated risk assessment" means an actuarial tool that has been validated in Idaho to determine the likelihood of the prisoner engaging in future criminal behavior. The board shall select a research-based risk assessment and shall validate the accuracy of the risk assessment at least every five (5) years in consultation with the commission. Assessments shall be performed by department staff who are trained and certified in the use of the risk assessment. The commission shall promulgate rules in compliance with chapter 52, title 67, Idaho Code, to ensure that risk assessment is used in determining parole, the benefit of holding a prisoner in prison to complete programming versus releasing the prisoner on parole to complete programming in the community and in setting conditions for parole supervision.

[20-224, added 1947, ch. 53, sec. 24, p. 59; am. 1980, ch. 297, sec. 7, p. 771; am. 1984, ch. 230, sec. 2, p. 551; am. 2014, ch. 150, sec. 13, p. 426.]

20-225. PAYMENT FOR COST OF SUPERVISION. Any person under state probation or parole supervision shall be required to contribute not more than seventy-five dollars (\$75.00) per month as determined by the board of correction. Costs of supervision are the direct and indirect costs incurred by the department of correction to supervise probationers and parolees, including tests to determine drug and alcohol use, books and written materials to support rehabilitation efforts, and monitoring of physical location through the use of technology. Any failure to pay such contribution shall constitute grounds for the revocation of probation by the court or the revocation of parole by the commission for pardons and parole. The division of probation and parole in the department of correction may exempt a person from the payment of all or any part of the foregoing contribution if it finds any of the following factors to exist:

(1) The offender has diligently attempted but been unable to obtain employment.

(2) The offender has a disability affecting employment, as determined by a physical, psychological or psychiatric examination acceptable to the division of probation and parole.

Money collected as a fee for services will be placed in the probation and parole receipts revenue fund, which is hereby created in the dedicated fund in the state treasury, and utilized to provide supervision for clients. Moneys in the probation and parole receipts revenue fund may be expended only after appropriation by the legislature. This section shall not restrict the court from ordering the payment of other costs and fees that, by law, may be imposed on persons who have been found guilty of or have pled guilty to a criminal offense, including those who have been placed on probation or parole.

[20-225, added 1984, ch. 187, sec. 1, p. 437; am. 2003, ch. 130, sec. 1, p. 383; am. 2005, ch. 68, sec. 1, p. 233; am. 2010, ch. 235, sec. 8, p. 548; am. 2011, ch. 73, sec. 1, p. 155; am. 2012, ch. 109, sec. 3, p. 299.]

20-225A. PAYMENT FOR INTERSTATE COMPACT APPLICATION. (1) Any person under state probation or parole supervision who applies for a transfer of supervision to another state shall be required to post an application fee not to exceed one hundred dollars (\$100).

(2) Money collected as a fee for services and compact administration shall be placed in the probation and parole receipts account, which is hereby created in the dedicated fund in the state treasury, and shall be utilized to provide supervision for offenders. Moneys in the probation and parole receipts account may be expended only after appropriation by the legislature.

[20-225A, added 2003, ch. 25, sec. 1, p. 95.]

20-226. RECORDS OF PRISONERS. The state board of correction shall cause a complete record to be kept of every prisoner committed to its custody. Such record shall be organized in accordance with the most modern method of filing and indexing so that there will always be immediately available a complete history on each prisoner. Such records shall be subject to disclosure according to chapter 1, title 74, Idaho Code.

[20-226, added 1947, ch. 53, sec. 26, p. 59; am. 1970, ch. 143, sec. 9, p. 425; am. 1990, ch. 213, sec. 15, p. 500; am. 2015, ch. 141, sec. 23, p. 404.]

20-227. ARREST OF PAROLEE, PROBATIONER OR PERSON UNDER DRUG COURT OR MENTAL HEALTH COURT SUPERVISION WITHOUT WARRANT -- AGENT'S WARRANT -- DETENTION -- REPORT TO COMMISSION OR COURT. (1) Any parole or probation officer may arrest a parolee, probationer, or person under drug court or mental health court supervision without a warrant, or may deputize any other officer with power of arrest to do so, by giving such officer a written statement hereafter referred to as an agent's warrant, setting forth that the parolee, probationer, or person under drug court or mental health court supervision has, in the judgment of said parole or probation officer, violated the conditions of drug court or mental health court or conditions of his parole or probation. The provisions of this section shall apply where the court has provided for the service of discretionary jail time.

(2) Such written statement or agent's warrant, delivered with the parolee, probationer, or person under drug court or mental health court supervision by the arresting officer to the official in charge of the insti-

tution from which the parolee was released, the county jail or other place of detention, shall be sufficient warrant for the detention of the probationer, parolee, or person under drug court or mental health court supervision.

(3) The agent's warrant issued by the parole or probation officer shall be sufficient authorization for a local law enforcement officer to transport the probationer, parolee, or person under drug court or mental health court supervision to the appropriate jurisdiction to be housed pending appearance before the sentencing court or the commission.

(4) The parole and probation officer shall at once notify the commission, or the court, of the arrest and detention of the parolee, probationer, or person under drug court or mental health court supervision, and shall submit in writing a report showing in what manner the parolee, probationer, or person under drug court or mental health court supervision is alleged to have violated the condition of his or her parole, probation, or drug court or mental health court program. When a probationer is arrested pursuant to an agent's warrant, the supervising officer shall provide the prosecuting attorney with a copy of the notice of arrest and the report.

(5) In counties where there are misdemeanor probation officers in addition to department of correction parole or probation officers, those officers shall have the same authority conferred upon department of correction parole or probation officers in this section to arrest a misdemeanor probationer without a warrant for misdemeanor probation violations occurring in the officer's presence as otherwise provided in this section.

(6) When a probationer has been arrested by the supervising officer without a warrant or pursuant to an agent's warrant, the supervising officer shall submit to the court, to the prosecuting attorney and to the facility where the probationer is detained, a statement of probable cause for the violation. The statement shall be attested to under oath or under penalty of perjury pursuant to section 9-1406, Idaho Code, and shall be submitted within twenty-four (24) hours of the arrest. If a judicial determination of probable cause is not made within forty-eight (48) hours of arrest, then the probationer shall be released.

[20-227, added 1947, ch. 23, sec. 27, p. 59; am. 1980, ch. 297, sec. 9, p. 772; am. 1994, ch. 424, sec. 1, p. 1332; am. 1999, ch. 300, sec. 1, p. 752; am. 2004, ch. 227, sec. 2, p. 670; am. 2006, ch. 143, sec. 1, p. 404; am. 2014, ch. 150, sec. 14, p. 427.]

20-228. CONDITIONS OF PAROLE TO BE SPECIFIED IN WRITING -- WARRANT FOR ARREST OF SUSPECTED VIOLATORS -- EFFECT OF SUSPENSION AND ARREST. The commission for pardons and parole, in releasing a person on parole, shall specify in writing the conditions of parole, and a copy of such conditions shall be given to the person paroled. The commission shall include in the conditions of parole a requirement that the defendant enter into and comply with an agreement of supervision with the board of correction. The agreement of supervision shall include provisions setting forth the potential sanctions for a violation of the conditions imposed and potential rewards for compliance with the conditions imposed, as such sanctions and rewards are set forth in rules of the board. Whenever the commission finds that a parolee may have violated the conditions of parole, the written order of the commission, signed by a member or members of the commission or the executive director, shall be sufficient warrant for any law enforcement officer to take into custody such person, and it is hereby made the duty of all sheriffs, police, constables, parole and probation officers, prison officials and

other peace officers, to execute such order. Such warrant shall serve to suspend the person's parole until a determination on the merits of the allegations of the violation has been made pursuant to a revocation hearing. From and after the issuance of the warrant and suspension of the parole of any convicted person and until arrest, the parolee shall be considered a fugitive from justice. Such person so recommitted, except as provided in section 20-229B, Idaho Code, must serve out the sentence, and the time during which such prisoner was out on parole shall not be deemed a part thereof, unless the commission, in its discretion, shall determine otherwise, but nothing herein contained shall prevent the commission from again paroling such prisoners at its discretion.

[20-228, added 1947, ch. 53, sec. 28, p. 59; am. 1970, ch. 105, sec. 1, p. 263; am. 1980, ch. 297, sec. 10, p. 772; am. 1994, ch. 171, sec. 3, p. 384; am. 1998, ch. 327, sec. 2, p. 1057; am. 2014, ch. 150, sec. 15, p. 428.]

20-228A. PAROLE SUBPOENA TO ASSIST IN APPREHENDING PAROLE ABSCONDERS. For the purpose of assisting with apprehending individuals on parole who have absconded and for whom the parole commission has issued a warrant of arrest, the director of the department of correction shall have power to issue a subpoena duces tecum to compel the production of writings, documents or records of any type or form, specifically including those stored or transmitted by any electronic or wireless means. If any person or entity to whom such subpoena is directed refuses to produce the documents, writings or records sought, as directed, within seven (7) days of receipt of the subpoena, the director may apply to the district court of the county where the records are located for an order compelling such person or entity to comply with the subpoena. Failure to obey such order may be punished by the court as a contempt thereof.

[20-228A, added 2004, ch. 296, sec. 1, p. 826.]

20-229. PAROLE REVOCATION HEARING. Whenever a paroled prisoner is accused of a violation of parole, other than by absconding supervision or the commission of, and conviction for, a felony or misdemeanor offense under the laws of this state, or any other state, or any federal laws, the parolee shall be entitled to a fair and impartial hearing of such charges within thirty (30) days from the date the accused is served with the charges of the violation of conditions of parole subsequent to arrest and detention. The hearing shall be held before one (1) or more members of the commission for pardons and parole, or before an impartial hearing officer selected by the executive director. Such hearing shall be held at a place or places, within this state, reasonably near the site of the alleged violation or violations of parole. If the parolee has been supervised outside of the state of Idaho and such violations occurred outside of Idaho, the executive director or hearing officer shall determine the location of the hearing.

Whenever a paroled prisoner is accused of a violation of parole by absconding supervision or the commission of, and conviction for, a felony or misdemeanor offense under the laws of this state, or any other state, or any federal laws, the parolee shall be entitled to a fair and impartial hearing within a reasonable time from the date the accused is served with such charges. The location of such hearing shall be determined by the executive director or hearing officer.

[I.C., sec. 20-229, as added by 1970, ch. 105, sec. 3, p. 263; am. 1975, ch. 247, sec. 1, p. 661; am. 1980, ch. 297, sec. 11, p. 773; am. 1994, ch. 171, sec. 4, p. 385.]

20-229A. NOTICE -- SERVICE -- WAIVER. (1) Within fifteen (15) calendar days following arrest and detention on a warrant issued by the Idaho commission for pardons and parole, the alleged parole violator shall be personally served with a copy of the factual allegations of the violation of the conditions of parole by a state probation and parole officer, a law enforcement official or other as designated by the executive director. When accused of a violation of his parole, other than by absconding supervision or the commission of and conviction for a felony or misdemeanor, the alleged parole violator shall be advised of the right to an on-site parole revocation hearing and of procedural rights and privileges as provided by this act. The alleged parole violator, after service of the allegation of violations of the conditions of parole and the notification of rights, may waive the on-site parole revocation hearing as provided by section 20-229, Idaho Code. If the alleged parole violator waives the right to an on-site hearing, the commission, executive director or hearing officer shall designate the facility where the hearing will be conducted.

(2) Whenever a paroled prisoner is accused of a violation of his parole by absconding supervision or the commission of and conviction for a felony or misdemeanor under the laws of this state, or any other state, or any federal laws, and following arrest and detention on a warrant issued by the Idaho commission for pardons and parole, the alleged parole violator shall be personally served with a copy of the factual allegations of the violation of the conditions of parole within a reasonable time. The alleged parole violator shall be advised of the right to a hearing and all other rights and privileges as provided by this act. The executive director or hearing officer shall designate the facility where the hearing will be conducted. A fair and impartial hearing of the charges will be conducted within a reasonable time.

(3) The alleged parole violator may waive the right to any hearing, and at that time may admit one (1) or more of the alleged violations of the conditions of parole. If the waiver is accepted by the commission or hearing officer: (i) the parolee may be reinstated under the same or modified conditions, or (ii) the parolee shall be subject to an expedited determination by the commission consistent with the provisions of section 20-229B, Idaho Code, without a hearing. If all waivers made by the parolee are rejected by the commission or designated hearing officer, a parole revocation hearing shall be held either on-site or at a penitentiary facility.

[20-229A, added 1970, ch. 105, sec. 4, p. 263; am. 1980, ch. 297, sec. 12, p. 773; am. 1983, ch. 249, sec. 1, p. 670; am. 1994, ch. 171, sec. 5, p. 385; am. 2014, ch. 150, sec. 16, p. 428.]

20-229B. COMMISSION RULINGS. (1) After a factual parole revocation hearing has been concluded, the member or members of the commission for pardons and parole or the designated hearing officer, having heard the matter, shall render a decision within twenty (20) days. If the alleged parole violator waives the parole hearing pursuant to the provisions of section 20-229A(3), Idaho Code, then a decision shall be entered upon acceptance of the waiver.

(2) If the member or members or hearing officer, having heard the matter, should conclude that the allegations of violation of the conditions

of parole have not been proven by a preponderance of the evidence, or those which have been proven by a preponderance of the evidence are not sufficient cause for the revocation of parole, then the parolee shall be reinstated on parole on the same or modified conditions of parole.

(3) If the member or members or hearing officer, having heard the matter, should conclude that the allegations of violation of the conditions of parole have been proven by a preponderance of the evidence and constitute sufficient cause for the revocation of parole, then a dispositional hearing shall be convened during a regular session of the commission to impose any sanctions up to and including executing an order of parole revocation and determine the period of time the parole violator shall be returned to state custody.

[20-229B, added 1970, ch. 105, sec. 5, p. 263; am. 1994, ch. 171, sec. 6, p. 386; am. 2014, ch. 150, sec. 17, p. 429; am. 2015, ch. 295, sec. 1, p. 1173; am. 2016, ch. 267, sec. 1, p. 719; am. 2017, ch. 182, sec. 5, p. 420.]

20-230. APPLICATION TO CONVICTIONS PRIOR TO ACT . Provisions of this act so far as applicable thereto are to apply to all convicted persons now serving time in the state penitentiary to the end that at all times the same provisions relating to sentences, imprisonment, and paroles of prisoners shall apply to the inmate thereof.

[20-230, added 1947, ch. 53, sec. 30, p. 59; am. 1980, ch. 297, sec. 13, p. 773.]

20-231. IMMUNITY FROM PAROLE OR RELEASE OF A PRISONER. Neither a public entity nor a public employee or servant shall be financially responsible or liable for any injury resulting from determining whether to parole or release a prisoner or from determining the terms or conditions of his parole or release or from determining whether to revoke his parole or release.

[20-231, added 1980, ch. 297, sec. 15, p. 774.]

20-232. REMISSION OF FINE OR PENALTY CERTIFIED TO COURT. Upon the remission of a fine or penalty by the commission, it shall be the duty of the commission forthwith to certify the same to the clerk of the court, where said fine or forfeiture was adjudged, who shall file the same in his office, and said proceedings shall constitute a satisfaction of the judgment.

[20-232, added 1947, ch. 53, sec. 32, p. 59; am. 1969, ch. 419, sec. 6, p. 1160; am. 1980, ch. 297, sec. 16, p. 774.]

20-233. FINAL DISCHARGE OF PAROLEE -- MINIMUM TERM. (1) When any paroled prisoner has performed the obligations of his parole for such time as shall satisfy the commission that his final release is not incompatible with his welfare and that of society, the commission may make the final order of discharge and issue to the paroled prisoner a certificate of discharge; but no such order of discharge shall be made in any case within a period of less than one (1) year after the date of release on parole, except that when the period of the maximum sentence provided by law shall expire at an earlier date, then a final order of discharge must be made and a certificate of discharge issued to the paroled prisoner not later than the date of expiration of said maximum sentence.

(2) The board of correction may submit a request to the commission for an order of final discharge from the remaining period of parole for

any parolee under the board's supervision at any time during the period of parole. A request for final discharge shall be supported by a statement attested to under oath or signed under penalty of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts upon which the request is based. The commission shall notify the victim of a request for final discharge from parole. Any response to a request for final discharge shall be filed within thirty (30) days of the date of submittal of the request. The commission may, without a hearing, rule upon a request for final discharge based on a review of the case, the request, the statement and any responses to the request, or may schedule a hearing on the request. The commission shall rule on the request for final discharge within ninety (90) days of the date of submittal of the request.

[20-233, added 1947, ch. 53, sec. 33, p. 59; am. 1980, ch. 297, sec. 17, p. 774; am. 2014, ch. 150, sec. 18, p. 430.]

20-234. PAROLE INFORMATION TO BE TRANSMITTED TO THE SHERIFF AND COUNTY PROSECUTOR. Whenever any person committed to the custody of the state board of correction shall have been granted a parole by the commission, it shall be the duty of the commission to transmit to the sheriff and the prosecuting attorney of the county within which said prisoner shall be paroled, a copy of the parole agreement, and information as to the place of residence of said prisoner within said county and the sheriff shall notify local law enforcement and other pertinent agencies.

[20-234, added 1947, ch. 53, sec. 34, p. 59; am. 1970, ch. 143, sec. 10, p. 425; am. 1974, ch. 6, sec. 6, p. 28; am. 1980, ch. 297, sec. 18, p. 774; am. 1984, ch. 85, sec. 1, p. 168.]

20-235. CERTIFICATION AND WARRANTS FOR EXPENSES. The chairman of the state board of correction, or his designee, is hereby authorized to certify all sums to be expended by said board in carrying out the purpose of this act to the state board of examiners, and the state board of examiners, upon the approval of said sums, shall cause the state controller to draw warrants for the amount of the same.

[20-235, added 1947, ch. 53, sec. 35, p. 59; am. 1974, ch. 6, sec. 7, p. 28; am. 1994, ch. 180, sec. 12, p. 429.]

20-236. MEMBERS OR EMPLOYEES OF BOARD NOT TO BE INTERESTED IN CONTRACTS -- PENALTY FOR VIOLATION. No member or employee of the state board of correction shall be interested directly or indirectly in any manner in contracts for furnishing the penitentiary or any property used in connection therewith or inmates thereof, any supplies, materials, equipment, or for the use of said institution. Nor shall any officer or employee be permitted to receive in any way perquisites for themselves or family, or any compensation or reward from any contractor or employee or other person. Should any officer or employee violate, or wilfully or negligently fail to observe the provisions and prohibitions of this section, he shall be at once dismissed from office by the state board of correction; and further, upon conviction of such violation by a court of competent jurisdiction, he shall be fined a sum not exceeding \$1,000.00 and not less than one month's pay, and shall forfeit his interest in any and all contracts or rewards he may have received or agreed to receive in violation of the provisions of this section.

[20-236, added 1947, ch. 53, sec. 36, p. 59.]

20-237. TRANSMISSION OF CONVICTED PERSONS TO PENITENTIARY OR CUSTODY OF BOARD -- NOTICE OF CONVICTION TO DIRECTOR -- TRANSPORTED BY GUARDS -- TIME FOR NOTICE. When any person is convicted in any court of the state and sentenced to imprisonment and committed to the custody of the state board of correction, or sentenced to suffer the death penalty, the sheriff of the county in which such conviction shall have been had shall immediately, upon passing of sentence, notify the director that a person is in his custody. Such notice shall be transmitted by either telegraph or telephone, followed by a written confirmation by certified mail. As soon as possible upon receipt of such notice, the director shall dispatch one or more correctional officers, as may be necessary, from the department to the place where the convicted person is detained, to secure and convey said convicted person to any department of correction facility, or other facility within the state designated by the state board of correction. The convicted person, a certified copy of the judgment, a copy of the presentence investigation report, if any, a copy of any disciplinary reports filed against the convicted person while in the sheriff's custody and all of the additional documents and allowable personal property, including medications as set forth in section 20-243, Idaho Code, shall be delivered into the custody of the director or his representative at the time of or prior to the delivery of the convicted person to the department. If all such records, documents, and property are not delivered at that time, the director or his representative may refuse to accept or transport the convicted person to a department facility.

[20-237, added 1947, ch. 53, sec. 37, p. 59; am. 1967, ch. 364, sec. 3, p. 1052; am. 1969, ch. 419, sec. 7, p. 1160; am. 1970, ch. 143, sec. 11, p. 425; am. 1991, ch. 116, sec. 1, p. 245.]

20-237A. FUNDING PER DIEM COSTS OF STATE PRISONERS HOUSED IN COUNTY JAILS, RELATED ADDITIONAL EXPENSES AND MANNER OF PAYMENT. (1) The board of correction shall pay each county for housing prisoners convicted, sentenced and committed to the custody of the state board of correction, including probationers and parolees committed to a county jail under section 20-219(7) (b), Idaho Code, beginning on the day after receipt by the director of notice that a person is in custody, as provided in section 20-237, Idaho Code.

(2) The state board of correction shall pay counties housing state-sentenced prisoners a minimum rate of fifty-five dollars (\$55.00) per day per inmate for the first seven (7) days of custody and seventy-five dollars (\$75.00) per day per inmate thereafter. Nothing stated herein will prohibit the state board of correction from entering into a contract with a county pursuant to section 20-241, Idaho Code.

(3) In addition to payment of per diem costs as provided in this section, the state board of correction shall pay for all ordinary and necessary medical and dental expenses of state prisoners housed in county jails.

(4) As between themselves, the state board of correction and each of the counties will be responsible for their pro rata share of any property damages or personal injuries arising from the housing of state-sentenced prisoners, which is attributable to their respective negligence or otherwise wrongful conduct. This provision shall not alter or affect any immunities or exceptions to governmental liability the state or counties may possess as to private persons pursuant to the Idaho tort claims act, chapter 9, title 6, Idaho Code.

(5) The legislature shall appropriate sufficient funds annually to the department of correction to make all payments to counties as required in this section.

(6) The county sheriffs shall bill the department of correction at least every sixty (60) days. The department of correction shall pay such bills within sixty (60) days of their receipt.

(7) The germane committees of the legislature shall review the costs of housing inmates in county jails every three (3) years beginning in 2004.

[20-237A, added 1992, ch. 80, sec. 1, p. 221; am. 2000, ch. 135, sec. 1, p. 354; am. 2014, ch. 239, sec. 1, p. 603; am. 2015, ch. 103, sec. 1, p. 246; am. 2018, ch. 122, sec. 1, p. 259.]

20-237B. MEDICAL COSTS OF STATE PRISONERS HOUSED IN CORRECTIONAL FACILITIES. (1) The state board of correction or any privatized medical provider under contract with the department of correction shall pay to a provider of a medical service, other than hospital inpatient or outpatient services, for any and all prisoners, committed to the custody of the department of correction, confined in a correctional facility, as defined in section 18-101A(1), Idaho Code, an amount equal to the reimbursement rates of the Idaho medicaid reimbursement fee schedule in place at the time services are provided. Hospitals shall be paid for inpatient and outpatient facility services provided to such prisoners in an amount equal to the interim Idaho medicaid rates in place at the time of service except for outpatient services paid by Idaho medicaid according to the Idaho medicaid fee schedule. These limitations apply to all medical care services provided outside the facility, including inpatient and outpatient hospitalizations, emergency services, professional services, durable and nondurable goods, prescription drugs and medications provided to any and all prisoners confined in a correctional facility, as defined in section 18-101A(1), Idaho Code. For services that are not included in the Idaho medicaid fee schedule or the interim Idaho medicaid rates, the state board of correction or any privatized medical provider under contract with the department of correction shall pay the reasonable value of such service. If a privatized medical provider is contracted with the department of correction, no hospital or any medical services provider shall be required to provide medical services to prisoners, except for emergency hospital services, in the absence of a contract between the privatized medical provider and the hospital or medical services provider. Any contract between the department of correction and a privatized medical provider must contain a requirement that the privatized medical provider enter into contracts with each hospital providing non-emergency services outside of the correctional facility. The contract between the privatized medical provider and the department of correction shall require, and the contracts between the privatized medical provider and any hospital or non-hospital providers shall include, at least the following terms reasonably and practicably consistent with those used by Idaho medicaid:

- (a) Claims adjudication processing;
- (b) Timing;
- (c) Payment;
- (d) Authorizations;
- (e) Utilization review;
- (f) Audit; and
- (g) Appeals processes.

(2) Subsection (1) of this section shall apply only to companies, professional associations and other health care service entities whose services are billed directly to the department of correction or any privatized medical provider under contract with the department of correction. Subsection (1) of this section shall not apply to:

- (a) Privatized correctional medical providers under contract with the department of correction to provide health care to prison inmates;
- (b) Private prison companies;
- (c) Out-of-state correctional facilities contracting with the department of correction to house prisoners;
- (d) County jails; and
- (e) Companies, professional associations and other health care service entities whose services are provided within the terms of agreements with privatized correctional medical providers under contract with private prison companies and county jails.

[20-237B, added 2005, ch. 157, sec. 1, p. 487; am. 2008, ch. 61, sec. 1, p. 153; am. 2018, ch. 321, sec. 2, p. 749.]

20-238. CLOTHING AND TRANSPORTATION TO BE FURNISHED PRISONERS UPON PAROLE OR FINAL DISCHARGE. Upon the release of any convicted person upon parole the state board of correction shall provide him or her with necessary wearing apparel and may also provide him or her with a bus or railroad transportation ticket to the place designated for parole, together with sufficient cash to procure meals in transit. Upon final discharge from the penitentiary, the board shall provide the convicted person with similar clothing and may furnish transportation and cash for meals to his home, or to the place from which the convicted person was committed to the penitentiary.

[20-238, added 1947, ch. 53, sec. 38, p. 59.]

20-239. DISCHARGE UPON SERVICE OF MAXIMUM TERM. Any convicted person undergoing sentence in the penitentiary not sooner released under the provisions of this chapter, shall in accordance with the provisions of existing law, be discharged from custody upon serving a maximum sentence provided by law for the offense of which such person was convicted, or the maximum term fixed by the court where the law does not provide for a maximum term. Provided however, if the date of discharge from custody falls on a Saturday, Sunday or legal holiday, then the person may be discharged from custody on the last weekday immediately preceding such Saturday, Sunday or legal holiday.

[20-239, added 1947, ch. 53, sec. 39, p. 59; am. 2007, ch. 32, sec. 1, p. 74.]

20-239A. RELEASE UPON GRANT OF PAROLE. Any convicted person undergoing sentence in the penitentiary who has a parole eligibility date which falls on a Saturday, Sunday or legal holiday may be granted a parole release date by the Idaho commission for pardons and parole which falls on the last weekday immediately preceding such Saturday, Sunday or legal holiday.

[20-239A, added 2008, ch. 42, sec. 1, p. 99.]

20-240. RESPITES, REPRIEVES, COMMUTATIONS AND PARDONS -- TREASON OR IMPEACHMENT. The governor shall have power to grant respites or reprieves in all cases of convictions for offenses against the state, except treason or imprisonment on impeachment, but such respites or reprieves shall not extend

beyond the next session of the commission; and such commission shall at such session continue or determine such respite or reprieve, or may commute or pardon the offense as herein provided. In cases of conviction of treason, the governor shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct its execution or grant a further reprieve. The commission shall have full and final authority to grant commutations and pardons except with respect to sentences for murder, voluntary manslaughter, rape, kidnapping, lewd and lascivious conduct with a minor child, and manufacture or delivery of controlled substances. The commission shall conduct commutation and pardon proceedings pursuant to rules and regulations adopted in accordance with law and may attach such conditions as it deems appropriate in granting pardons or commutations. With respect to commutations and pardons for the offenses named above, the commission's determination shall only constitute a recommendation subject to approval or disapproval by the governor. No commutation or pardon for such named offenses shall be effective until presented to and approved by the governor. Any commutation or pardon recommendation not so approved within thirty (30) days of the commission's recommendation shall be deemed denied.

[20-240, added 1947, ch. 53, sec. 40, p. 59; 1969, ch. 419, sec. 8, p. 1160; am. 1988, ch. 323, sec. 1, p. 982.]

20-241. ACCEPTANCE OF FEDERAL OR OTHER FUNDS OR PROPERTY. The state board of correction, with the written consent of the governor, shall have the power and it shall be its duty:

1. To accept from the United States of America or any of its agencies, such funds, equipment, and supplies as may be made available to this state for any of the purposes contemplated by law, and to enter into such contract and agreements with the United States or any of its agencies, or other states, as may be necessary, proper and convenient, not contrary to the laws of the state.

2. To enter into an agreement with the board of county commissioners of any county, or with the governing officials of any municipality of this state for the payment by said county or municipality of all or any part of the cost of performance by the state board of correction of any parole or probation services or the supervision of any parole or probation case arising within the said county or municipality, as the case may be, or the maintenance therein of work camps as authorized by law.

3. To accept any grant or donation of land or any gift of money or valuable thing made to the state for any of the purposes contemplated by law.

[20-241, added 1947, ch. 53, sec. 41, p. 59; am. 1970, ch. 143, sec. 12, p. 425; am. 1997, ch. 223, sec. 2, p. 656.]

20-241A. AGREEMENTS FOR CONFINEMENT OF INMATES. The state board of correction shall have the power and it shall be its duty:

(1) To determine the availability of state facilities suitable for the detention and confinement of prisoners held under authority of state law. If the state board of correction determines that suitable state facilities are not available, it may enter into an agreement with the proper authorities of the United States, another state, a political subdivision of this state or another state, or a private prison contractor, to provide for the safekeeping, care, subsistence, proper government, discipline, and to provide pro-

grams for the reformation, rehabilitation and treatment of prisoners. Facilities made available to the state board of correction by agreement may be in this state, or in any other state, territory or possession of the United States. The state board of correction shall not enter into an agreement with an authority unable to provide the degree or kind of safekeeping, care and subsistence required by state or federal laws, the constitution of the state of Idaho, the United States constitution, and the rules adopted by the state board of correction. All contracts or agreements entered into by the state board of correction and a private prison contractor shall be subject to the provisions of this section and section 20-209, Idaho Code.

(a) An authority or private prison contractor, receiving physical custody for the purpose of incarceration of a person sentenced by a court under the terms of an agreement made under this section, shall be considered as acting solely as an agent of this state. This state retains jurisdiction over a person incarcerated in an institution of another state, the United States, a political subdivision of this state or another state, or of a private institution;

(b) The attorney general of this state shall enforce an agreement or contract made under this section in a civil suit.

(2) The state board of correction shall have the authority to enter into contracts with private prison contractors for the site selection, design, design/building, acquisition, construction, construction management, maintenance, leasing, leasing/purchasing, management or operation of private prison facilities or any combination of these services, subject to the following requirements and limitations:

(a) Any request for proposals, any original contract, any contract renewal, any price or cost adjustment or any other amendment to any contract for the incarceration of individuals in a private institution, shall be reviewed by the board of correction;

(b) No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the state board of correction that the contractor possesses the necessary qualifications and experience to provide the services specified in the contract; that the contractor can provide the necessary qualified personnel to implement the terms of the contract; that the financial condition of the contractor is such that the terms of the contract can be fulfilled; that the contractor has the ability to comply with applicable court orders and corrections standards; and that the proposed private prison facilities or the correctional services proposed by the contractor meet constitutional minimums;

(c) No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the state board of correction that the contractor can obtain insurance or provide self-insurance to indemnify the state against possible claims arising from the operation of prison facilities by the contractor, and to compensate the state for any losses incurred due to the operation of prison facilities;

(d) Contracts awarded to private prison contractors pursuant to the provisions of this section shall be entered into for a period specified in each contract, subject to availability of funds annually appropriated by the Idaho legislature for that purpose. No contract awarded pursuant to this section shall provide for the encumbrance of funds beyond the amount available for a fiscal year;

(e) A contract may provide for annual contract price or cost adjustments, except that any adjustments may be made only once each year effective on the anniversary of the effective date of the contract.

(3) Any contract between the state board of correction and a private prison contractor, whereby the contractor provides for the housing, care, and control of inmates in a nondepartmental facility operated by the contractor, shall contain, in addition to other provisions, terms and conditions:

(a) A requirement that the contractor is to provide said services in a facility which meets standards as required by the Idaho department of correction;

(b) If a private prison institution is to be located in the state of Idaho on private land, it shall be required that the contractor obtain written authorization from the governing board of any municipality in which the facility is to be located, or if the facility is not to be located within the municipality, written authorization from the board of county commissioners of the county in which the facility is to be located;

(c) A requirement that the private prison contractor shall provide training to its personnel to a level acceptable to the Idaho department of correction. The Idaho department of correction may provide training to the personnel of a private prison contractor and may charge a reasonable fee for the training, not to exceed the cost of training. The provisions of this section shall not be construed to confer peace officer status upon any employee of the private prison contractor or to authorize the use of firearms except to prevent escape from the facility or from custody while being transported to or from the facility or to prevent an act which would cause death or serious bodily injury to any person. The provisions of this section shall not be construed to confer Idaho state employee status upon any employee of the private prison contractor;

(d) A requirement that any private prison contractor operating a facility that houses prisoners pursuant to a contract between the contractor and the state board of correction shall cooperate with the Idaho department of correction for the prevention and suppression of serious disturbances, including riots, escapes, affrays or insurrections, at the private prison facilities. To effectuate this provision, the contract shall, at a minimum, provide:

(i) For participation by the private prison contractor in multi-agency training for the preventing and responding to serious disturbances at a private prison facility;

(ii) For participation by the private prison contractor in multi-agency agreements for the prevention of and response to serious disturbances at a private prison facility and reimbursement for emergency services provided by governmental entities;

(iii) For notification by the private prison contractor to the director of the Idaho department of correction in the event of a serious disturbance at a private prison facility and for consultation by the director of the Idaho department of correction with the private prison contractor prior to a response by the director of the Idaho department of correction;

(iv) That the private prison contractor shall provide access to the private prison facility for the Idaho department of correction

and such other governmental entities or agencies as the Idaho department of correction may designate, including space to establish a command post, for responding to a serious disturbance;

(v) That, in the event of a serious disturbance, the private prison contractor shall participate in a unified command structure under the director of the Idaho department of correction until, in the director of the Idaho department of correction's discretion, the serious disturbance is resolved.

(4) Contracts awarded under the provisions of this section shall, at a minimum, comply with the following:

(a) Provide for internal and perimeter security to protect the public, employees and inmates;

(b) Provide that the private prison contractor shall not benefit financially from the labor of inmates nor shall any inmate ever be placed in a position of authority over another inmate. Any profits realized from the operation of a prison enterprise program shall revert to the department of correction or appropriate governmental authority. Private prison contractors may work with the Idaho department of correction in setting up work and training programs. Private prison contractors shall be authorized to purchase services and commodities from the Idaho department of correction which are necessary for implementing work or training opportunities as outlined in this section;

(c) Impose discipline on inmates only in accordance with applicable Idaho department of correction rules and procedures;

(d) Provide proper food, clothing, housing and medical care as provided for in the contract.

(5) A private prison contractor, in carrying out its duties and responsibilities under contract with the state board of correction, shall not be bound by the enactments of the legislature which govern the appointment, qualifications, duties, salaries or benefits of wardens, managers or other correctional employees. No employee of the private prison contractor shall be considered an employee of the state of Idaho. A private prison contractor shall not employ any person who does not satisfy the board of correction's personnel policies.

(6) The director of the Idaho department of correction or his designee shall monitor the performance of the private prison contractor. In all such contracts the state shall retain clear supervisory and monitoring powers over the operation and management of the private institutions to insure that the inmates are properly cared for and that the employees of the facility and the public are adequately protected. Included in the powers and responsibilities of the director of the Idaho department of correction or his designee when acting as the chief contract monitor of the private prison contract are:

(a) Approval of all inmate releases on furlough or work release;

(b) Approval of the type of work offenders may perform pursuant to this section and review and approval of any incentive pay plan presented by the private prison contractor for offender pay;

(c) Approval of the training program for the private prison contractor's employees;

(d) A determination if the minimum requirements of the contract are being satisfactorily performed;

(e) Promulgation of rules interpreting or making specific application of the provisions of this section;

(f) A determination if appropriate policies and procedures of the Idaho department of correction are being followed by the private prison contractor and its personnel;

(g) The duty, as set forth in section 20-209B, Idaho Code, to prevent, control and suppress serious disturbances, including riots, escapes, affrays and insurrections at a private prison facility that houses prisoners pursuant to a contract between the private prison contractor and the state board of correction, that, in the director of the Idaho department of correction's discretion, threaten the health, safety, security and property of the facility, facility staff, prisoners, the public and the state of Idaho. This duty shall be exercised in the director of the Idaho department of correction's discretion after consultation with the private prison contractor. The director of the Idaho department of correction shall designate personnel and facilities under the control of the state board of correction and shall enter into such agreements as deemed necessary with other governmental entities, to respond to serious disturbances at a private prison facility.

(7) No contract for correctional services may authorize, allow, or imply a delegation of authority or responsibility to a private prison contractor which would allow the contractor to:

(a) Develop or implement procedures for calculating inmate release dates;

(b) Approve the type of work inmates may perform and the wages which may be given to inmates engaging in the work;

(c) Place an inmate under less restrictive custody or more restrictive custody or take any disciplinary actions contrary to rules and procedures approved by the Idaho department of correction;

(d) Develop or implement procedures regarding the care, custody and treatment of inmates which are contrary to the Idaho department of correction's policies and procedures, state or federal law.

(8) Any offense, which if committed in a state institution or facility would be a crime, including escape, shall also be a crime if committed by or with regard to offenders assigned to an institution or facility operated pursuant to a contract between the state and a private prison contractor.

(9) Any reference in the Idaho Code to imprisonment in a state penitentiary, or state prison, or incarceration under the control and custody of the Idaho board of correction shall be interpreted to include incarceration in a private prison facility.

[20-241A, added 1997, ch. 223, sec. 3, p. 657; am. 2010, ch. 351, sec. 3, p. 916.]

20-242. FURLOUGH. 1. When a person is committed to the custody of the state board of correction, the board may, upon conditions which it may impose, direct that the person be permitted to continue in his regular employment, work project, or educational program, if that is compatible with the requirements of subsection 3 of this section, or may authorize the person to secure employment for himself.

2. If the board directs that the prisoner be permitted to continue in his regular employment or education, the board shall arrange for a continuation of the employment or education so far as possible without interruption. If the prisoner does not have regular employment, and the board has authorized the prisoner to secure employment for himself, the prisoner may do so, and the board may assist him in doing so.

3. Whenever the prisoner is not employed and between the hours or periods of employment, work project, or schooling, he shall be domiciled in a jail, facility, or residence as directed by the board of correction.

4. The earnings of the prisoner shall be retained by the prisoner under such terms and conditions as the board may impose. From such earnings the board may require that:

- a. the prisoner pay an amount to the board of correction sufficient for the prisoner's board and personal expenses, both inside and outside the jail, facility, or residence, including costs of administering such prisoner's work furlough program;
- b. the prisoner provide for the reasonable and adequate support and maintenance of the prisoner's dependents;
- c. the prisoner pay preexisting debts;
- d. the prisoner deposit earnings in a financial institution.

5. If the prisoner violates the conditions established for his conduct, custody or employment, the board may order the balance of the prisoner's sentence to be spent in actual confinement.

6. The wilful failure of a prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement under this section is an escape from the place of confinement and is punishable as provided by section 18-2505, Idaho Code.

7. A furlough may be revoked by the board at any time without notice or hearing.

[20-242, added 1947, ch. 53, sec. 42, p. 59; am. 1970, ch. 143, sec. 13, p. 425; am. 1979, ch. 215, sec. 1, p. 599; am. 1984, ch. 58, sec. 1, p. 106.]

20-242A. INMATE INCENTIVE PAY. The board of correction is hereby authorized to institute an incentive pay program for those inmates performing work at the direction of the board of correction in jobs not associated with correctional industry employment.

Such compensation, if any, shall be in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance.

Nothing in this section is intended to restore, in whole or in part, the civil rights of any inmate. No inmate compensated under this section shall be considered an employee of the state or the board of correction, nor shall any inmate be eligible for worker's compensation under title 72, Idaho Code, or be entitled to any benefits thereunder whether on behalf of himself or any other person.

[20-242A, added 1970, ch. 16, sec. 1, p. 31; am. 1972, ch. 234, sec. 1, p. 615; am. 2015, ch. 111, sec. 1, p. 279.]

20-243. DELIVERY OF CONVICTED PERSON TO PENITENTIARY OR BOARD -- COPY OF COMMITMENT -- RECEIPT FOR DELIVERY OF PRISONER. When any convicted person is delivered to the penitentiary or to the custody of the board of correction, the officer having the prisoner in charge shall deliver to the state board of correction or such official, as the board may designate:

- (1) A certified copy of the commitment received by such officer from the clerk of the court where the convicted person was tried, and such certified copy of the commitment shall be evidence of the fact therein contained;

(2) A copy or summary of such medical records of the prisoner as may have been prepared or received by the agency or institution from whose custody the prisoner is being delivered, including at least a written report of any suicide attempts, abnormal behavior, seizures or other significant facts affecting the prisoner's medical condition which were observed during his confinement prior to the delivery;

(3) All unused portions of medications prescribed to the prisoner while in custody and any legitimate prescription medication in the prisoner's possession when taken into custody;

and shall take from such official a certificate of the delivery of such convicted person.

[20-243, added 1947, ch. 53, sec. 43, p. 59; am. 1970, ch. 143, sec. 14, p. 425; am. 1982, ch. 98, sec. 1, p. 277.]

20-244. GOVERNMENT AND DISCIPLINE OF THE CORRECTIONAL FACILITY -- RULES AND REGULATIONS. The state board of correction shall make and adopt such rules and regulations for the government and discipline of the correctional facility as they may consider expedient, and from time to time, change and amend the same as circumstances may require. A printed copy of the rules and regulations shall be furnished to every officer and guard at the time he is appointed, and so much thereof as relates to the duties and obligations of the convicted persons shall be given to the convicted person upon reception at the state's correctional institutions.

[20-244, added 1947, ch. 53, sec. 44, p. 59; am. 1984, ch. 178, sec. 1, p. 425.]

20-245. OFFENDER LABOR ON STATE AND COMMUNITY SERVICE PROJECTS. (1) Offender labor on state projects. The state board of correction shall have the authority to use, under such rules as they may prescribe, the labor of offenders either within or without the walls of the penitentiary and on all public works done under the direct control of the state; that offender labor under control of the state board of correction shall manufacture and repair state highway signs, except for highways and projects where federal regulations would prohibit the use of signs so manufactured; provided, that so far as practicable any manufacture conducted within the walls shall be in connection with metal motor license plates, road or street signs furnished by the state or used by its municipalities, wearing apparel, articles and containers, for state use in the various departments or institutions of the state not for sale upon the open market. When any product produced by the offender shall be used by any department or other institution of the state, the current appropriation shall receive from such department or institution such reimbursement therefor as may be fixed by the state board of correction with the approval of the state board of examiners.

(2) Offender labor on community service projects. The state board of correction shall have the authority to assign parolees under department of correction supervision, probationers under court order or department of correction supervision and offender residents of community work centers under the direction or order of the board of correction, as community service workers as set forth in section 72-102(6), Idaho Code. The state board of correction shall have the authority to charge offenders performing community service work an hourly fee in an amount to be determined by the state insurance fund, to be remitted to the state insurance fund for purposes

of providing worker's compensation insurance for parolees, probationers or community work center residents assigned as community service workers.

[20-245, added 1947, ch. 53, sec. 45, p. 59; am. 1957, ch. 207, sec. 1, p. 434; am. 2004, ch. 149, sec. 2, p. 483; am. 2006, ch. 206, sec. 3, p. 633.]

20-246. PENITENTIARY -- POWERS OF BOARD OF CORRECTION. All transactions and dealings of the state penitentiary and its properties shall be conducted in the name of the board of correction. The board shall be capable in law of suing in all courts and places in all matters concerning the said penitentiary and is hereby authorized to sue for and recover all sums of money or property due from any person to the people of the state on account of said penitentiary.

[20-246, added 1949, ch. 67, sec. 1, p. 113; am. 1969, ch. 419, sec. 9, p. 1160.]

20-247. TRANSFER OF PRISONER TO FEDERAL PENAL OR CORRECTIONAL INSTITUTION. Any person committed to the state penitentiary whose presence may be seriously detrimental to the well-being of the state penitentiary or who wilfully and persistently refuses to obey the rules and regulations of the state penitentiary or who is considered an incorrigible inmate may, upon written certification from the state board of correction, be transferred to a federal penal or correctional institution, provided the attorney general of the United States accepts such application and transfer.

[20-247, added 1963, ch. 107, sec. 1, p. 329.]

20-248. CONTRACT FOR CARE OF TRANSFERRED PRISONER. The state board of correction is hereby authorized to contract with the attorney general of the United States or such officer as the Congress may designate under the provisions of title 18, section 5003 of the United States Code, and acts supplementary and amendatory thereof, in each individual case for the care, custody, subsistence, education, treatment and training of any prisoner transferred under the provisions of this act. The contract shall provide for the reimbursement of the United States in full for all costs or other expenses to be paid from the appropriation for the operation of the state penitentiary. The state board of corrections shall affix to such contract a copy of the commitment or commitments under which the prisoner is held and the same along with the contract of transfer shall be sufficient authority for the United States to hold said prisoner on behalf of the state of Idaho.

[20-248, added 1963, ch. 107, sec. 2, p. 329.]

20-249. TRANSFERRED PRISONER SUBJECT TO TERMS OF ORIGINAL SENTENCE. Any prisoner transferred under this act shall be subject to the terms of his original sentence or sentences as if he were serving the same within the confines of the Idaho state penitentiary. Nothing herein contained shall deprive such prisoner of his rights to parole or his rights to legal process in the courts of this state.

[20-249, added 1963, ch. 107, sec. 3, p. 329.]

20-250. DEPARTMENT OF CORRECTION REPORTING REQUIREMENTS. The department of correction shall report to the legislature by February 1 of each year on the amount of savings generated and on the prison population impact under

the policy framework of this act for the purpose of tracking the progress toward meeting the impact estimates and goals of the act.

[20-250, added 2014, ch. 150, sec. 20, p. 431.]