

November 26, 2024

The Honorable Brad Little
Governor of the State of Idaho
Boise, Idaho 83702
VIA HAND DELIVERY

Re: Defects in the Laws

Dear Governor Little:

Under article V, section 25 of the Idaho Constitution, on or before December 1st of each year, the Supreme Court shall submit to the Governor, for transmission to the Legislature, such defects and omissions in the laws as the Court may find to exist. In keeping with this constitutional provision, I submit the following defects in the law found by the Court or submitted to the Court by the trial bench.

1. **Suggest clarifying the length of time a domestic violence protection order may be continued [I.C. §§ 39-6306(5) and 39-6311(4)]:**

I.C. § 39-6306(5) limits a domestic violence protection order to a fixed period not to exceed one (1) year. However, upon motion and a showing of good cause, a court may continue a protection order beyond this initial one (1) year period. I.C. § 39-6306(5) allows the protection order to be continued “for an appropriate time period as directed by the court or made permanent.” In contrast, I.C. § 39-6311(4) states that a protection order may only “be renewed for additional terms not to exceed one (1) year each.” These conflicting provisions invite different interpretations and applications by Idaho courts. Accordingly, one (1) of these statutes should be amended to clarify whether the Legislature intends to limit the renewal of protection orders to one (1) year periods or instead permit a court to continue such orders permanently.

2. **Address the statutes requiring the State Public Defender to provide indigent defense services in juvenile corrections act cases and permitting courts to require reimbursements for such services to the counties [I.C. §§ 19-6009(3)(b) and 20-514(7)]:**

Senate Bill 1367 amended the State Public Defender act to clarify the scope of the State Public Defender’s duty to provide indigent defense services. Specifically, I.C. § 19-6009(3)(b) provides that indigent persons are entitled to representation by the State Public Defender in “[a]ctions arising under the Idaho juvenile corrections act, chapter 5, title 20, Idaho Code.” I.C. § 20-514(7) permits courts to require the parents, spouse or other person liable for the support of the juvenile to reimburse “the county” for the cost of indigent defense services provided in

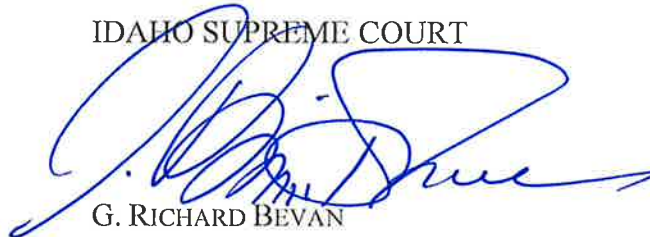
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juvenile corrections act cases. Since counties are no longer providing indigent defense services in these cases an amendment to clarify the Legislature's intention regarding reimbursements for such services is in order.

Statutory amendments to fix each of these identified defects necessarily involve policy choices. Since policy decisions such as these are properly the province of the Legislature, we make no recommendation regarding the particular manner in which these defects should be addressed.

Very truly yours,

IDAHO SUPREME COURT



G. RICHARD BEVAN
Chief Justice

Cc: President Pro Tem
Speaker of the House
Administrative Director of the Courts