



Report to Governor  
C.L. "Butch" Otter  
and the 1st Regular  
Session of the 63rd  
Idaho Legislature

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## The Idaho Supreme Court's Legislative Priorities for the 2015 Legislative Session

As the Third Branch of Government, we provide access to justice through the timely, fair, and impartial resolution of cases.

The following have been identified as the Court's legislative priorities for the 2015 legislative session:

- **Consider amending the Idaho Bail Act and related statutes to allow a court, when issuing a bench warrant for a defendant's failure to appear, to ensure that the defendant will appear before the court following arrest by either: (1) setting no bail on the warrant, and setting bail only after the defendant has appeared before the court where the charges are pending; or (2) setting bail on the warrant, but ordering that the defendant shall not be released on bail until appearing before the court where the charges are pending. This proposal contemplates amendments to both I.C. §§ 19-1507 and 19-2915.**

Currently, when a criminal defendant fails to appear in court when required, the Idaho Code requires the court to issue a bench warrant for the defendant's arrest and to set bail on the warrant. The result is that a defendant who is arrested on the bench warrant will sometimes post bail, be released from jail, and then again fail to appear in court as required. This further delays proceedings and defeats the ends of justice. This situation can be remedied by giving courts discretion to either set no bail on a bench warrant, or to set bail but require that the defendant actually appear before the court where the charges are pending before being released. This will stop the revolving door by allowing the judge to set appropriate bail when the defendant actually appears in court, and to set additional conditions of release to ensure the defendant's future appearance in court.

- **Consider amending I.C. §§ 10-1110 and 11-101 to provide that the lien arising from a judgment for restitution owed to a crime victim does not have to be renewed every five years, and that a writ of execution for enforcement of such a judgment can be issued at any time following the judgment.**

Idaho Code provides that when a defendant is found guilty of any crime resulting in economic loss to a victim, the court shall order the defendant to make restitution unless it finds that such an order would be inappropriate or undesirable. I.C. § 19-5304(2). This order may later be recorded as a judgment, and the victim may execute on the judgment in the same manner as any other civil judgment. I.C. § 19-5305. However, crime victims are generally not represented by an attorney, and they may not realize that the lien arising from a judgment must be renewed every five years, I.C. § 10-1110, or that the judgment must be executed upon within five years, unless the court grants a motion to extend that time. I.C. §§ 11-101 and 11-105. To enable victims of crime to fully recognize their constitutional right to restitution for the harm that has been done to them, these five year limitations should be lifted for victims who are seeking to recover on a judgment for restitution arising from a defendant's conviction.

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- **Consider amending the Juvenile Corrections Act to clarify that when a court sentences a juvenile to the custody of the Department of Juvenile Corrections, the court may also order that the juvenile be placed on probation following the juvenile's release from custody. This proposal contemplates an amendment to I.C. § 20-520.**

The Juvenile Corrections Act provides for many options in sentencing a juvenile who has been found within the purview of the act, including placing the juvenile on probation and sentencing the juvenile to the custody of the Department of Juvenile Corrections. I.C. § 20-520(a), (r). However, it is not clear whether the court may exercise both of these options. The JJAT has proposed making it clear that when a court sentences a juvenile to the custody of the Department, it may provide that the juvenile will be on probation following release from the custody of the Department. The period of probation would run up to three years following the release from custody or until the juvenile's 21st birthday, whichever occurs first. The court would hold a hearing within 30 days after the juvenile's release from custody to determine the term and conditions of the probation. This would allow continuing supervision and rehabilitation of juveniles when they are placed back in the community.

- **Consider legislation to clarify the time served in custody for which a defendant must receive credit toward his or her sentence. This proposal contemplates amendments to I.C. §§ 18-309, 19-2603, and 20-209A.**

Idaho Code currently contains some ambiguities and possible conflicts concerning the time served prior to sentence or revocation of probation for which a defendant must receive credit toward his or her sentence. The Supreme Court's Felony Sentencing Committee has recommended legislation that would remove these ambiguities, ensure consistency, and provide fairness to defendants when determining credit for time served.

By separate letter dated December 1, 2014, the Supreme Court conveyed the "Defects in the Law" letter to the Governor, as required under article I, section 25 of the Idaho Constitution, outlining such defects and omissions in the laws as the Court may find to exist.

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