

# THE IDAHO SUPREME COURT

## OTHER LEGISLATION FOR THE 2013 LEGISLATIVE SESSION



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

Report to Governor  
C.L. "Butch" Otter and  
the 1st Regular Session  
of the 62nd Idaho  
Legislature

*Idaho Judiciary*

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The Court also proposes consideration of Legislation to accomplish the following:

- 1. Add disturbing the peace to the crimes for which the domestic violence court fee is assessed.** Idaho Code § 32-1410 provides that persons convicted of crimes involving domestic violence, abuse of alcohol, or controlled substances are to pay a fee of \$30.00, which is deposited in the Drug Court, Mental Health Court and Family Court Services Fund, Idaho Code §1-1625. The funds generated by this fee are used to assist in funding domestic violence courts, which are currently in operation in five of Idaho's seven judicial districts, and which use evidence-based practices to "hold offenders accountable, increase victim safety, provide greater judicial monitoring and coordinate information . . . Effective case management and coordination ensure that decisions in one case do not conflict with existing orders in other civil and criminal cases and provide courts with the necessary information to protect victims and families" (Idaho Code § 32-1408). Many domestic violence charges are amended to the charge of disturbing the peace, defined in Idaho Code § 18-6409. Adding disturbing the peace to the list of crimes for which the domestic violence court fee is assessed will generate the collection of approximately \$70,700 annually, which can be applied to expand domestic violence courts and provide help and safety to more troubled families, while holding offenders accountable.
- 2. Amend the Child Protective Act to improve both the implementation of the Act and ensure continued Federal funding.** The Supreme Court's Child Protection Committee has recommended several amendments to the Child Protective Act, title 16, chapter 16 of the Idaho Code. These amendments would improve the implementation of the Act and ensure continued Federal funding by doing the following:
  - (1) Amending the definition of "aggravated circumstances," a phrase that describes those cases involving very serious abuse of a child or other serious criminal conduct that removes the requirement of making reasonable efforts to reunite the child with the parent;
  - (2) Clarifying the definitions of "protection order" and "protective supervision";
  - (3) Clarifying the time lines for reunification, guardianship and adoption; and
  - (4) Ensuring that any aspects of current practice affecting substantive rights are included in the statutes.

These proposals enjoy broad based support and represent the views of the Idaho Department of Health and Welfare, guardians ad litem, judges, and others involved in this very important work.

- 3. Expansion of rehabilitation options for persons who demonstrate good behavior while on probation and for a substantial period of time following discharge from probation.** Idaho Code § 19-2604 currently provides options for a person who performs well on probation to avoid the disabilities and impediments arising from a felony conviction. Those who have not been found to have committed any violations of probation, or who have graduated from a drug court or mental health court and have not been found to have committed any violations of probation

after graduation, may have their convictions set aside or reduced to a misdemeanor if the judge finds that doing so would be compatible with the public interest. Also, a defendant who is placed on probation following retained jurisdiction and who is not found to have committed any violations of probation may have the felony conviction reduced to a misdemeanor. The Supreme Court is submitting for consideration a proposal that a person who is convicted of a felony and placed on probation, and who is not convicted of any additional felony while on probation and for a substantial period, such as seven years, following discharge from probation, could request that the court reduce the felony conviction to a misdemeanor. As with the other provisions of Idaho Code § 19-2604, the court could take such action only upon finding that it would be compatible with the public interest, and such relief would not be available to any person convicted of a crime for which sex offender registration is required. This provision would open educational and employment opportunities to persons who have committed an isolated felony, perhaps while young, but have demonstrated good behavior thereafter. This would provide an incentive for good conduct, aid rehabilitation, and in this way would further public safety.

- 4. Provide for certifications in certain signed documents that would be the equivalent of an oath, and further provide that making a false statement in a document with such certification would constitute perjury.** Various documents have to be signed under oath, including claims of liens and affidavits. Current law requires signing those documents before someone who is authorized by statute to administer the oath. Idaho should consider enacting statutes, as have other states, to provide that signing a document with a required statement would be the equivalent of an oath. The statement would be something like, "I hereby certify under the penalty of perjury that the statements contained in the forgoing document are true." The perjury statute would also have to be changed to provide that making a false statement in a document with such certification would constitute perjury.

## **ADDITIONAL BUDGET MATTERS OF INTEREST FOR THE 2013 LEGISLATIVE SESSION**

The Supreme Court requests the following additional budget matters be addressed this legislative session:

- 1. Specialized Facilities Planner required to assist counties and district courts statewide.** A significant personnel need has been identified to provide needed resources to the counties in the specialized area of facilities planning. This proposed position is to be designated as a Court Facilities Planning Specialist. The Facilities Planning Specialist would work with counties, judges, and court personnel to assess current space and building needs and to project needs for the future. This person would also assist in the planning process in remodeling efforts or efforts to build a new court house, including operations planning, staffing projections, space planning, technological needs, security and public safety, public access and community connectivity, building site utilization, building codes and other standards including Americans with Disabilities Act compliance. This request is included in the Court's FY14 Budget Request and is supported by the Counties and the Courts Committee which consists of representatives from the Courts, the Idaho Association of Counties, a county commissioner, a sheriff, an elected court clerk, a prosecuting attorney, and a public defender.
- 2. Increased spending authority from the existing Drug Court, Mental Health Court, and Family Court Services Fund, I.C. § 1-1625.** The Court seeks one-time spending authority from the Drug Court, Mental Health Court, and Family Court Services Fund in the sum of \$524,000 to achieve the following purposes:
  - > To ensure funding for two child protection drug court coordinators, to help drug courts ensure adequate drug testing funds are available to accomplish program compliance and rehabilitation goals, to maximize triage services to families and children in difficult family law cases, and to provide a lead attorney for court assistance services in three additional judicial districts in order to better meet the needs of the rapidly increasing population of self-represented litigants.



> In addition to the one-time authority, the Court seeks ongoing spending authority from the fund in the sum of \$200,000 to create a much needed Domestic Violence Court in the 5th Judicial District, to provide annual training for judges and coordinators, and to fund offender evaluations and assessments.

These requests are included in the Court's FY14 Budget Request.

- 3. Effective administration of substance use disorder funds for Problem-Solving Courts.** The Court wishes to thank the Legislature for its wisdom in the 2011 session in reallocating the previous level of substance abuse treatment funds to multiple entities including the Department of Correction, Department of Juvenile Corrections, and the Idaho Supreme Court, in addition to the traditional recipient, the Department of Health and Welfare. Significant work has been accomplished to ensure the courts administer these funds for drug courts and mental health courts efficiently and effectively, pursuant to evidence-based standards adopted by the Drug Court and Mental Health Court Coordinating Committee, established by I.C. § 19-5606. The Court looks forward to reporting to the Legislature on its significant accomplishments and expected outcomes. In addition, the Court seeks a commensurate 5% provider reimbursement rate increase from Substance Use Disorder Treatment Funds as an ongoing appropriation. The Supreme Court remains committed to a statewide approach for substance abusing offenders and urges funding for the same 5% increase already approved by the Idaho Department of Correction, Department of Juvenile Corrections, and Idaho Department of Health and Welfare. Without the appropriation, a 5% provider rate increase for the Courts will reduce the number of offenders who can participate in problem-solving courts by 58 slots, or 88 offenders per year who would otherwise be bound for jail or prison at a significant cost to taxpayers.

This provider rate increase is included in the Court's FY14 Budget Request.

- 4. Additional guardian ad litem funding for abused and neglected children.** I.C. § 16-1614 provides that in any proceeding under the Child Protective Act (CPA) the court shall appoint a guardian ad litem (GAL) for the child or children to serve at each stage of the proceeding unless the court does not have a sufficient number of guardians ad litem available. In FY12 there were 470 abused and neglected children who were not served by a GAL in CPA court proceedings. Increasing the ongoing appropriation by \$50,000 for the Guardian Ad Litem/CASA program is projected to help close this gap by serving an additional 104 abused and neglected children by providing training and recruitment of 20 additional volunteers. The GAL district programs in Idaho struggle with meeting their statutory obligations to provide a GAL volunteer to every child, especially in rural counties. Additional funding will be used to support mileage reimbursement, additional staff time to support rural GAL volunteers, and training requirements for volunteers located sometimes hundreds of miles from the nearest GAL program office.

This request is included in the Court's FY14 Budget Request.

- 5. Juvenile Intervention Programs continue to make a difference.** The Court requests a \$450,000 appropriation from the Millennium Fund to support ongoing efforts in this important area. The Court's goal is to encourage communities, when appropriate, to intervene when a youthful offender engages in status offenses, those offenses for which there is no adult counterpart legal charge. By definition, status offenses can only be committed by youth under 18. Intervention is different from prevention because a behavior has occurred that has been brought to the attention of police or other legal authority and is case specific. Prevention efforts target general populations. These intervention programs are designed to redirect status offenders and non-offenders away from formal court processing, but still hold them accountable for their actions. In some cases, the programs secure services for the diverted youth. Effective juvenile intervention programs today include youth courts, status offender services, and alcohol and tobacco diversion courts.



## MISSION STATEMENT OF THE IDAHO COURTS

AS THE THIRD BRANCH OF GOVERNMENT, WE PROVIDE ACCESS  
TO JUSTICE THROUGH THE TIMELY, FAIR, AND IMPARTIAL  
RESOLUTION OF CASES.

### VALUES OF THE IDAHO COURTS

INTEGRITY	FAIRNESS	INDEPENDENCE
RESPECT	EXCELLENCE	INNOVATION

## STRATEGIC GOALS AND MAJOR OBJECTIVES OF THE IDAHO COURTS

### I. Provide Timely, Fair, and Impartial Case Resolution

- Advance justice by resolving cases as early as possible, while guaranteeing the rights of the parties.
- Resolve cases involving children and families through the combined efforts of the courts, the family, and community services in ways that are least adversarial and intrusive.
- Improve the safety and well-being of children and families involved in child protection cases.

### II. Ensure Access to Justice

- Strengthen and expand both Court Assistance Office services and options for legal representation for persons of limited means while increasing the public's awareness of these services.
- Enhance the ability to efficiently conduct court business by developing technologies, especially electronic filing of all court documents.

### III. Promote Effective, Innovative Services

- Assure the highest level of service by recruiting highly-qualified judges and court personnel and advancing their professional development through educational opportunities.
- Enhance court programs and services by actively working with the legislative and executive branches of state government, counties, cities, and stakeholders to foster the necessary resources to meet the evolving needs of Idahoans.
- Provide long-term resolution of cases through effective application of the principles of problem-solving justice.

### IV. Increase Public Trust and Confidence in Idaho Courts

- Protect communities, reduce recidivism, and hold offenders accountable through evidence-based sentencing practices.
- Increase awareness of the importance of the jury system—as well as the public's participation in that system—and develop strategies to improve jury service and appreciation.

