



Idaho State Judiciary



Report to Idaho Courts:

Uniform Business Practices to Implement Legislative and Rule Changes

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Acknowledgements:

The Court wishes to acknowledge and express appreciation for the work of various committees and workgroups who developed these business practices.

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IDAHO RULES OF CIVIL PROCEDURE

I.R.C.P. 3(a)

When a family law case is commenced, this rule requires that a family case information sheet be filed. This rule was amended to require that an information cover sheet also be filed in all guardianship and conservatorship cases, as well as involuntary commitment cases. The sheet is used as an administrative tool to coordinate cases involving the same individual. On the following page are copies of the most recent approved cover sheets which comply with this rule change.

Business Practices for Court Clerks:

Deputy clerks should handle the filing of these new cover sheets in the same manner in which other family law matters are handled (divorce, custody dispute, etc.). The following is a review of the steps.

1. Check fee schedule for correct code and fee category, collect fee and issue a receipt;
2. Open a case in ISTARs;
3. File stamp the initiating document and any conformed copies;
4. File stamp the case information sheet;
5. Enter the documents in the ROA; and
6. The case information sheet is exempt from disclosure pursuant to I.C.A.R. 32 and therefore should be placed in a sealed envelope.

**Case Information Sheet for Mental Health
Commitments or Relief from Firearms Disability**

Case Number (Clerk fills in case #):

Exempt from Public Disclosure

Fill out this form to start a new case. The information you give us is private.

1. **Describe your case:** Relief from Firearms Disability
 Mental Health Commitment
 Other (please list) _____

2. Please fill out the following information for the patient:

Full Legal Name: _____
First Middle Last

Any other names used: _____

Physical Address: _____
Street City State Zip

If address is a facility, name and contact number for the facility: _____

Work Address: _____
Street City State Zip

Phone numbers: _____
Home Work Cell

Social Security Number: _____ Date of Birth: _____ Sex: Male Female

Driver's License Number: _____ Email Address: _____

Height: _____ Weight: _____ Eye Color: _____ Hair Color: _____

5. Other cases involving the person who may need a guardian or conservator named on this form (list any guardianship, conservatorship, or other cases filed in another state or county)

Case Number	Date of Order (or date requested)	County / State	Type of case	
1.			<input type="checkbox"/> Guardianship <input type="checkbox"/> Both	<input type="checkbox"/> Conservatorship <input type="checkbox"/> Other _____
2.			<input type="checkbox"/> Guardianship <input type="checkbox"/> Both	<input type="checkbox"/> Conservatorship <input type="checkbox"/> Other _____
3.			<input type="checkbox"/> Guardianship <input type="checkbox"/> Both	<input type="checkbox"/> Conservatorship <input type="checkbox"/> Other _____

I.R.C.P. 11(b)(3)

Previously when an attorney was granted leave by the court to withdraw as counsel, it was the withdrawing attorney's responsibility to serve copies of the order of withdrawal to his or her client and all other parties to the action. The amendment places the responsibility on the clerk to serve the order of withdrawal in accord with Rule 77(d) in the same manner that other orders are served, and clarifies that the 20 day period for the client to respond begins after service of the order.

I.R.C.P. 16(a)&(b)

New Rules 16(a) and (b) replace the former Rules 16(a) through (g) and were proposed by the Advancing Justice Committee. The current rules were reorganized and multiple sections combined to eliminate duplication. Scheduling conferences are to be held within 30 days after an answer or notice of appearance is filed. When one or more defendants have been served, but no appearance has been made, a scheduling conference or status conference shall be set no later than three months after a complaint is filed and a scheduling order entered that addresses dates for discovery, other pre-trial conferences and a trial date.

I.R.C.P. 16(a)

- Scheduling conferences are to be held within 30 days after an answer or notice of appearance is filed.
- When one or more defendants have been served, but no appearance has been made, a scheduling conference or status conference shall be set no later than three months after a complaint is filed and a scheduling order entered that addresses dates for discovery, other pre-trial conferences and a trial date.

I.R.C.P. 16(b)

- Final pre-trial conference is to be held at least 30 days before trial.
- No later than three (3) days prior to the date set for the final pre-trial conference all parties may file a written stipulation regarding any matter to be discussed.
- The court shall enter a written pre-trial order which recites the action taken at the conference.
- Written objections to a pre-trial order may be filed within 14 days from date of service, and shall be heard prior to trial in the same manner as a motion.

Business Practices for Court Clerks:

- Upon the initiation of a new matter the clerk should calendar a date two months out for a "tickler" or status check. On that date, if one or more defendant has been served, but no appearance has been made, a scheduling conference or status conference shall be set no later than three months after a complaint is filed.

- Upon receipt of a responsive pleading (answer or notice of appearance) it is necessary to calendar a scheduling conference within 30 days.

I.R.C.P. 54(a)

Rule 11 of the Idaho Rules of Appellate Procedure sets forth the appealable judgments and orders. In civil cases, an appeal can be taken from “[f]inal judgments, as defined in Rule 54(a) of the Idaho Rules of Civil Procedure . . .” In 2010, Rule 54(a) of the Idaho Rule of Civil Procedure was amended to clarify what constitutes a judgment. This was necessary as a number of appeals to the Idaho Supreme Court were dismissed without prejudice because the purported judgment that was entered did not comply with the rule.

Rule 54(a) mandates that the Judgment: be a separate document; titled “Judgment” or “Decree”; shall state the relief to which a party is entitled on one or more claims for relief in the action (such relief can include dismissal with or without prejudice); and that the judgment shall not contain a recital of pleadings, the report of a master, the record of prior proceedings, the court’s legal reasoning, finding of fact or conclusions of law.

This year’s amendment provides further clarity by mandating that “[a] judgment shall begin with the words ‘JUDGMENT IS ENTERED AS FOLLOWS: . . .,’ **and it shall not contain any other wording between those words and the caption.** A judgment can include any findings of fact or conclusions of law expressly required by statute, rule, or regulation.” (*Emphasis added.*)

I.R.C.P. 56(a)&(b)

The time for filing a motion for summary judgment has been changed so that it must be filed at least 90 days before trial date or filed within 7 days from the date of the order setting the case for trial, whichever is later, unless otherwise ordered by the court. The primary purpose of this rule change is to ensure efficient use of court time and parties’ time and costs in preparing for trial and is in line with the goal of I.R.C.P. Rule 1 to secure a just, speedy and inexpensive determination of every action and proceeding. Under the current rule, if motions for summary judgment are filed 60 days before trial, it is likely that the court will be unable to make a ruling in advance of the trial and/or the pretrial deadlines. Thus, the parties and the court will be preparing for trial unnecessarily should summary judgment be granted thereby increasing the time and costs incurred by the parties. By moving the deadline to 90 days prior to trial, a ruling is likely to be made 30 days prior to trial, giving the parties, in most cases, sufficient time to prepare for trial and comply with pretrial deadlines.

LEGISLATIVE CHANGES

HB 404

Amends existing law to define DUI “repeat offender,” when a breath alcohol ignition interlock device is required and for how long, and provides calibration specifications. The amendment also limits the circumstance in which a court may waive the requirement of an alcohol evaluation.

The purpose of this legislation is to improve highway safety by amending the State of Idaho’s current repeat intoxicated driver (repeat offender) law. In 2012, impaired driving contributed to 40% of the fatalities on all Idaho roadways. This legislation defines the term 'repeat offender' and will enhance safety by applying consistency as to timing and length requirements when an ignition interlock device is ordered for repeat driving under the influence (DUI) offenders. These changes also allow repeat DUI offenders the opportunity to be productive by continuing the ability to transport themselves to places of employment and treatment programs under a restricted driver’s license program.

Federal law regarding ignition interlocks for repeat DUI offenders changed on July 6, 2012 with the passage of the federal highway act known as the Moving Ahead for Progress in the 21st Century (MAP-21). As a result, Idaho’s law on ignition interlock devices for repeat DUI offenders fell out of compliance with the assessment and treatment requirements associated with mandatory driver’s license suspension. (23 Code of Federal Regulations Part 1275.) This legislation, which goes into effect July 1, 2014, brings Idaho into compliance.

Overview of House Bill 404

Definition of Repeat Offender 18-101A(10)

The new legislation provides the definition of a “Repeat offender” in DUI related crimes and penalties as follows:

“Repeat offender” means, for the purposes of sections 18-8002, 18-8002A, 18-8004C, 18-8005 and 18-8008, Idaho Code, a person who has been convicted of driving while intoxicated or driving under the influence of alcohol and/or drugs more than once in any five (5) year period for the purposes of sections 18-8002A and 18-8004C, Idaho Code, or any ten (10) year period for the purposes of sections 18-8002 and 18-8005, Idaho Code.

Duration of Use of State Approved Ignition Interlock for Repeat Offenders

Each of the statutes identified in the definition below (sections 18-8002, 18-8002A, 18-8004C, 18-8005 and 18-8008) pertaining to DUI related crimes, penalties, and use of ignition interlocks were amended to specify that the interlock systems installed for repeat offenders must be:

- “state approved”
- “maintained for not less than one (1) year”

- 18-8008 pertaining specifically to ignition interlocks was also amended to mirror the language of the other DUI statutes which mandates that the ignition interlock “system [be] installed on each of the motor vehicles owned or operated, or both, by the offender.”

Calibration of the Interlock

Section 18-8008 previously left the ignition interlock’s calibration setting to the presiding court. The amendment, however, now specifies that the setting “shall be .025.”

Waiver of Alcohol Evaluation (18-8005(11))

Section 18-8005(11) previously permitted the court to waive the requirement of an alcohol evaluation (by a facility approved by the Idaho Department of Health and Welfare) with respect to a defendant’s violation of sections 18-8004 (DUI), 18-8004C (Excessive Concentration of Alcohol), or 18-8006 (Aggravated Driving While Under Influence) and proceed to sentence the defendant *if* the court had a presentence investigation report, substance abuse assessment, criminogenic risk assessment, or other assessment which evaluates the defendant’s degree of alcohol abuse and need for treatment conducted within the 12 months preceding the sentencing. This language has been amended to only permit such a waiver if the defendant is faced with his or her *first* violation of 18-8004, 18-8004C, or 18-8006.

HB 434

Raises the maximum fine for an infraction from \$100 to \$300 (§18-111; §19-1902); provides that the penalty for infraction will be: 1) the amount set by statute; 2) the amount set by Idaho Supreme Court Infraction Rule 9, if not by statute; 3) the amount set by city or county ordinance, if not set under 1) or 2); 4) an amount set by the sentencing court in its discretion if such discretion is permitted by statute or ordinance using language such as “not to exceed” or “not more than” a specific amount; or 5) otherwise \$15.50 (penalty does not include court costs and fees.) (§18-113A; §49-1503)

This legislation updates Idaho law concerning infraction penalties. The law presently shifts the authority to set infraction penalties from the Supreme Court to the Legislature, except where discretionary sentencing is specifically given to the courts. The maximum infraction penalty has been raised from \$100 to \$300.

The primary intent behind this amendment was to allow for more flexible use of infractions as penalties instead of misdemeanors. Misdemeanors by definition carry the potential for jail time, which requires the provision of a public defender. Changing penalties from misdemeanors to infractions in appropriate cases will reduce costs for and work load upon public defenders. This amendment sets a foundation for future legislative transition of some misdemeanor penalties to infraction penalties.

The legislation also provides cities and counties flexibility in using infraction penalties rather than misdemeanors in punishing ordinance violations, so as to encourage them to transition from misdemeanor to infraction violations where appropriate.

The Legislature has not altered by statute any of the penalty amounts set forth in Idaho Infractions Rule 9. Therefore, until such changes are made, the amounts set by Idaho Infraction Rule 9 remain in effect.

HB 447 & I.C.A.R. 54.2 & 54.3

HB 447 amends provisions that pertain to guardian and conservator reporting requirements (Title 15, Chapter 5 and Title 66, Chapter 4; make technical corrections; amend code to provide for the collection, payment and deposit of certain monies; the renaming of funds (section 31-3201G). ICAR Rules 54.2 and 54.3 instruct a guardian or conservator, respectively, on the content of his or her report (which must be under oath or affirmation) as well as when to file that report.

The Supreme Court's Guardianship and Conservatorship Committee recommended these statutory amendments to improve the monitoring of guardianships and conservatorships to better protect minors, incapacitated adults, and persons with disabilities. The changes effect the content and form of reports to be filed with the court by guardians and reports, inventories, and accountings to be filed by conservators. These reports will now more readily reflect the information that is needed to ensure the protection of those persons whose health, welfare, and assets are at risk.

Further, the position of court visitor is defined in Idaho Code § 15-5-308. In guardianship and conservatorship cases, the visitor has the responsibility to investigate and report to the court on all of the critical aspects of a guardianship or conservatorship, including the nature of the incapacity, the needs of the individual, the appropriateness of the guardian or conservator whose appointment is sought, whether a full or limited guardianship or conservatorship should be ordered, and other important information. As a continuing effort to improve the monitoring of guardianships and conservatorships to better protect minors, incapacitated adults, and persons with disabilities, the court may use court personnel to provide court visitor services through the Guardianship and Conservatorship Project Fund, established by Idaho Code § 31-3201G. This bill amends section 15-5-314, Idaho Code, to provide that any money recovered from the ward's estate for visitor services provided by court personnel will be deposited into the Guardianship and Conservatorship Project fund, Idaho Code § 31-3201G.

I. Reasons for Change?

- Simplify and organize reporting requirements
- Provide for one location for all guardians and conservators to find requirements
- Additional flexibility for courts to set requirements
- Ongoing court responsibility to monitor guardianship/conservatorship appointments
- Include detailed guardian reporting requirements

II. Statutory Changes

- Guardianship
 - I.C. 15-5-209 Powers and Duties of Guardian of Minor
 - Deletes specific reporting requirements for guardians of minors
 - Includes requirements for guardians of minors to report annually and comply with Idaho Supreme Court Rule.
 - I.C. 15-5-312 General Powers and Duties of Guardian

- Deletes reference for guardians of incapacitated adults to report as required by conservatorship reporting statutes.
 - Includes requirements for guardians of incapacitated adults to report at least annually and comply with Idaho Supreme Court rule.
 - I.C. 66-405 Order in Protective Proceedings
 - Deletes detailed reporting requirements for guardians of individuals with developmental disabilities.
 - Includes requirements for guardians of individuals with developmental disabilities to report at least annually and comply with Idaho Supreme Court rule.
- Conservatorship
 - I.C. 15-5-418
 - Repealed all the detailed contents of a conservator’s 90 day inventory report.
 - I.C. 15-5-419 Reporting Requirements for Conservators
 - Renames title from “accounts and reports” to “reporting requirements for conservators.”
 - Deletes any reference to guardian reporting requirements.
 - Deletes all the detailed contents requirements of a conservator’s accounting.
 - Replaces reporting requirements with the requirements for a conservator of both minor and incapacitated adults to submit a 90 day inventory, an annual accounting, a final accounting and comply with Idaho Supreme Court rule.
 - I.C. 66-405 Order in Protective Proceedings
 - Deletes detailed reporting requirements for conservators of individuals with developmental disabilities.
 - Includes requirements for conservators of individuals with developmental disabilities to submit a 90 day inventory, an annual accounting, a final accounting and to comply with Idaho Supreme Court rule.

III. New Idaho Court Administrative Rules (ICAR) 54.2 & 54.3

- ICAR 54.2 Guardianship Reports
 - Guardian must file a report: (1) 30 days following the anniversary date of the appointment; (2) annually; (3) when the guardian resigns or is removed; and (4) when guardianship is terminated unless court determines otherwise.
 - Report must be under oath or affirmation and shall contain: (1) contact information; (2) current condition of the person under guardianship; (3) services; (4) guardian visits; (5) current treatment plan; (6) changes in capacity; (7) recommendations for continued guardianship or changes in scope; (8) other relevant information.
- ICAR 54.3 Conservator Reports
 - Conservator must file an: (1) inventory within 90 days; (2) accounting within 30 days of the anniversary date of the appointment; (3) accounting annually; (4) an accounting

with a petition for resignation or termination of the appointment; (5) a final accounting within 30 days of removal; and (6) as ordered by the court.

- 90 Day Inventory must be under oath or affirmation and shall contain: (1) contact information for conservator and person under conservatorship; (2) description and fair market value of all assets; (3) description of all encumbrances/debts; and (4) any other relevant information.
- Accounting must be under oath or affirmation and shall contain: (1) contact information for conservator and person under conservatorship; (2) description of everything of value received by the person under the conservatorship; (3) listing of all payments; (4) listing of net assets of the estate; and (5) any other relevant information.

IV. Significant Differences

- No requirement for notary
- 30 additional days after anniversary date to file initial reports
- Requirement to disclose relationship between any creditor and conservator or person under conservatorship
- Detailed reporting content for guardians of minors and incapacitated adults
- Requirement to include contact information for both the guardian/conservator and the subject of the proceedings

V. Standardized Forms

Standardized forms have been created by the Guardianship and Conservatorship Committee to facilitate compliance with these statutory and rule changes. These forms include:

- New minor guardianship annual status report
- Improved conservatorship 90-day inventory
- Improved accounting (large and small estate)

The forms can be downloaded at: <http://www.courtselfhelp.idaho.gov/guardianship>

VI. Business Practices for Court Clerks:

Guardianship Annual Status Report

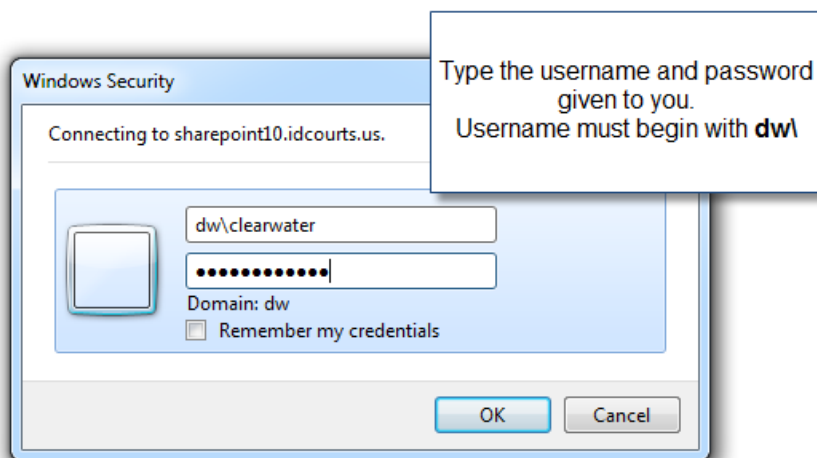
1. File the signed order of appointment and letters of guardianship and send certified copies to the appointee as requested;
2. In ISTARs, enter the date of the appointment of the guardian and check the box on the guardian tab which indicates that the guardian was appointed;
3. Enter the new **Initial** Annual Report-Guardian. The system should calculate the due dates for this initial report. This will be 395 days from the date of the appointment of the conservator. (365 days + 30 days);
4. When you receive the first Care Plan Guardian Report, collect the appropriate fee and enter the “received date” in the ISTARs report history. Send a copy of the report along

- with a copy of the order appointing guardian to the designated independent reviewer and insert the date sent in the “review sent date” area of the report history;
5. When each annual report is submitted, collect the appropriate fee and enter the “received date” in the ISTARs report history. Send a copy of the report to the assigned judge and insert the date sent in the “review sent date” area of the report history. Enter the next report due date by selecting the report type; ISTARs will continue to calculate the due dates for all subsequent reports (in the second year you should select “Annual Report - Guardian” which will calendar a due date for 365 days out);
 6. If there are any concerns about the report the judge will take appropriate action;
 7. Send out delinquency letters for any Guardians who have not submitted reports by the due date.

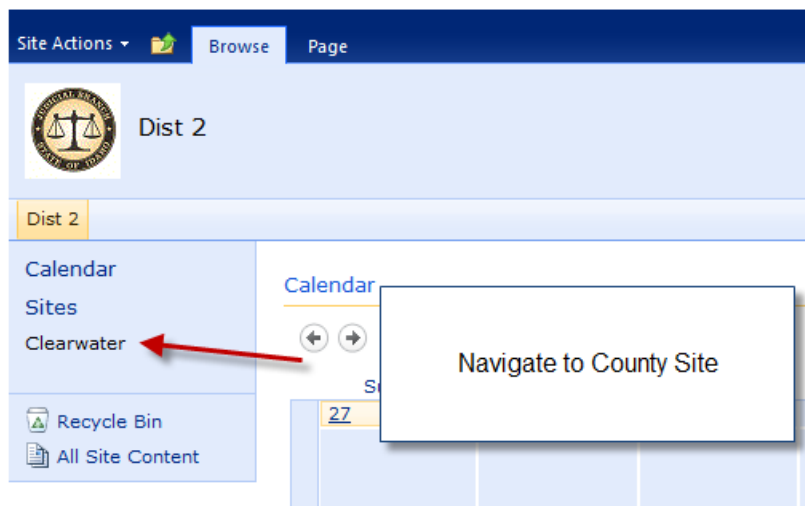
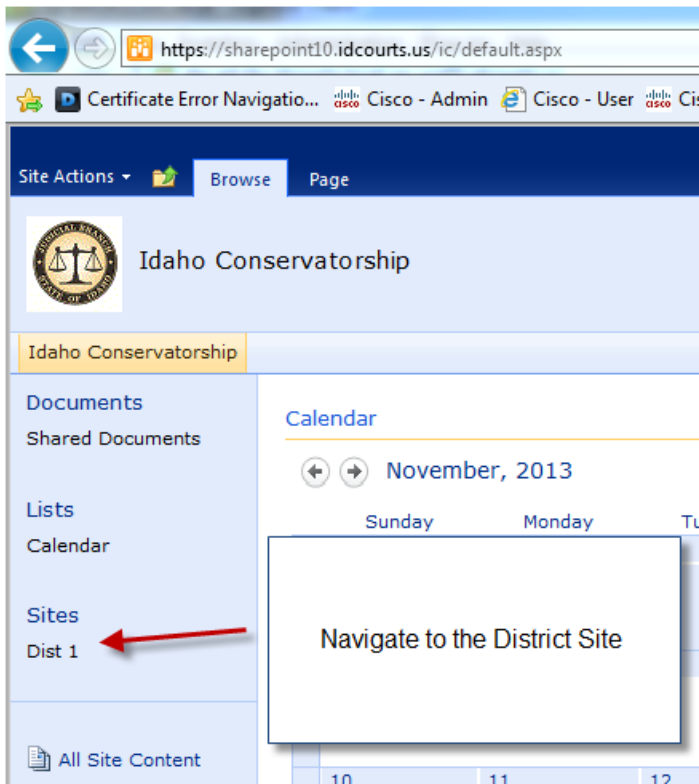
Conservatorship 90 Day Inventory and Annual Accounting

The clerk should follow the existing process to submit the improved 90 Day Inventory and Annual Accounting to the Supreme Court for third party review. (NOTE: ISTARs has been revised such that the due date for the Inventory is now 90 days and NOT 120 days.)

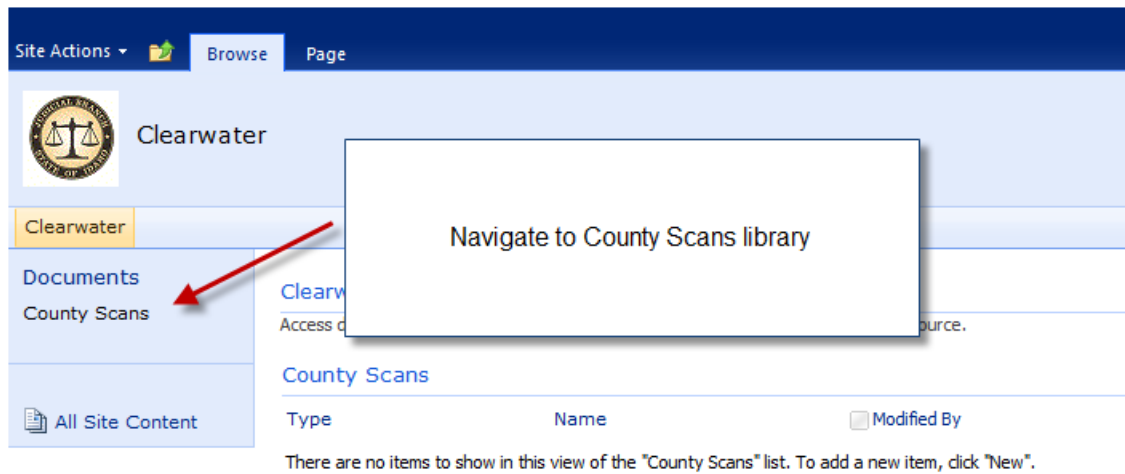
- Open internet and enter web addresses: <https://sharepoint10.idcourts.us/ic> . (We recommend that you bookmark this address for future use.)
- Select Sharepoint and enter username and password.



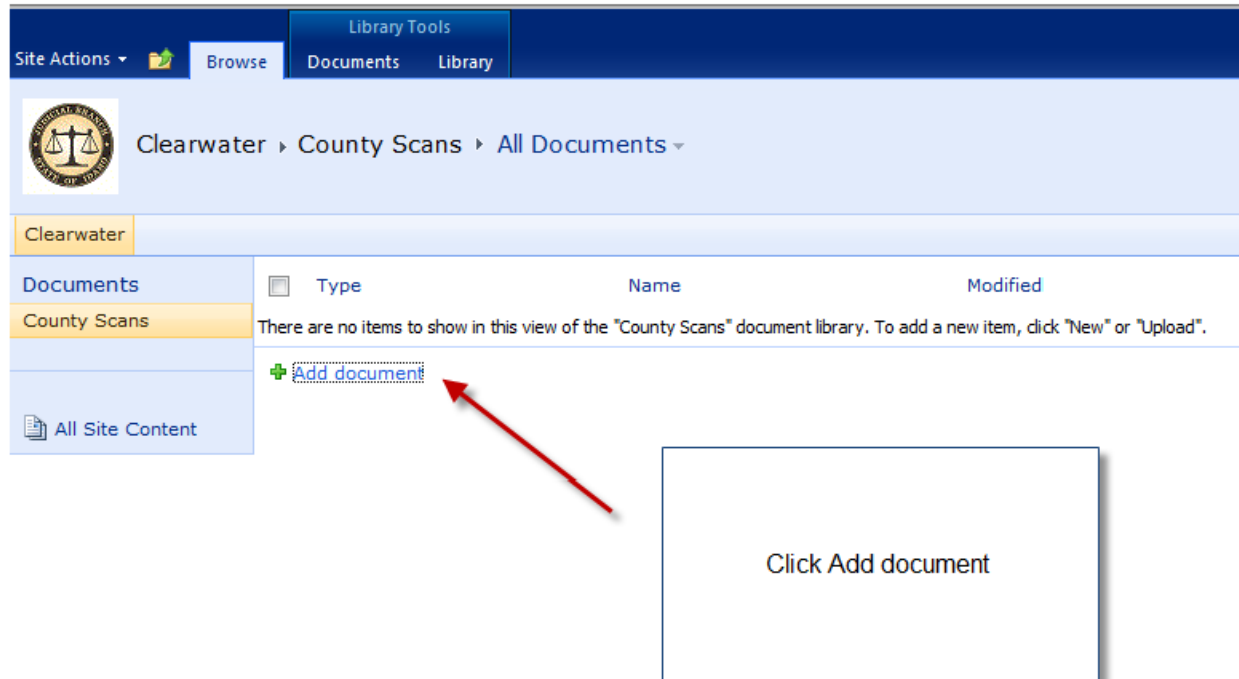
- Select district and then county under Sites tab.



- Select county scans



- Select upload.



- Select Upload Multiple Files.

Clearwater County Scans All Documents

Documents

Type	Name	Modified	Modified By
There are no items to show in this view of the "County Scans" document library. To add a new item, click "New" or "Upload".			

Add document

All Site Content

Click Browse to upload one document at a time.

Upload Document

Upload Document

Browse to the document you intend to upload.

Name:

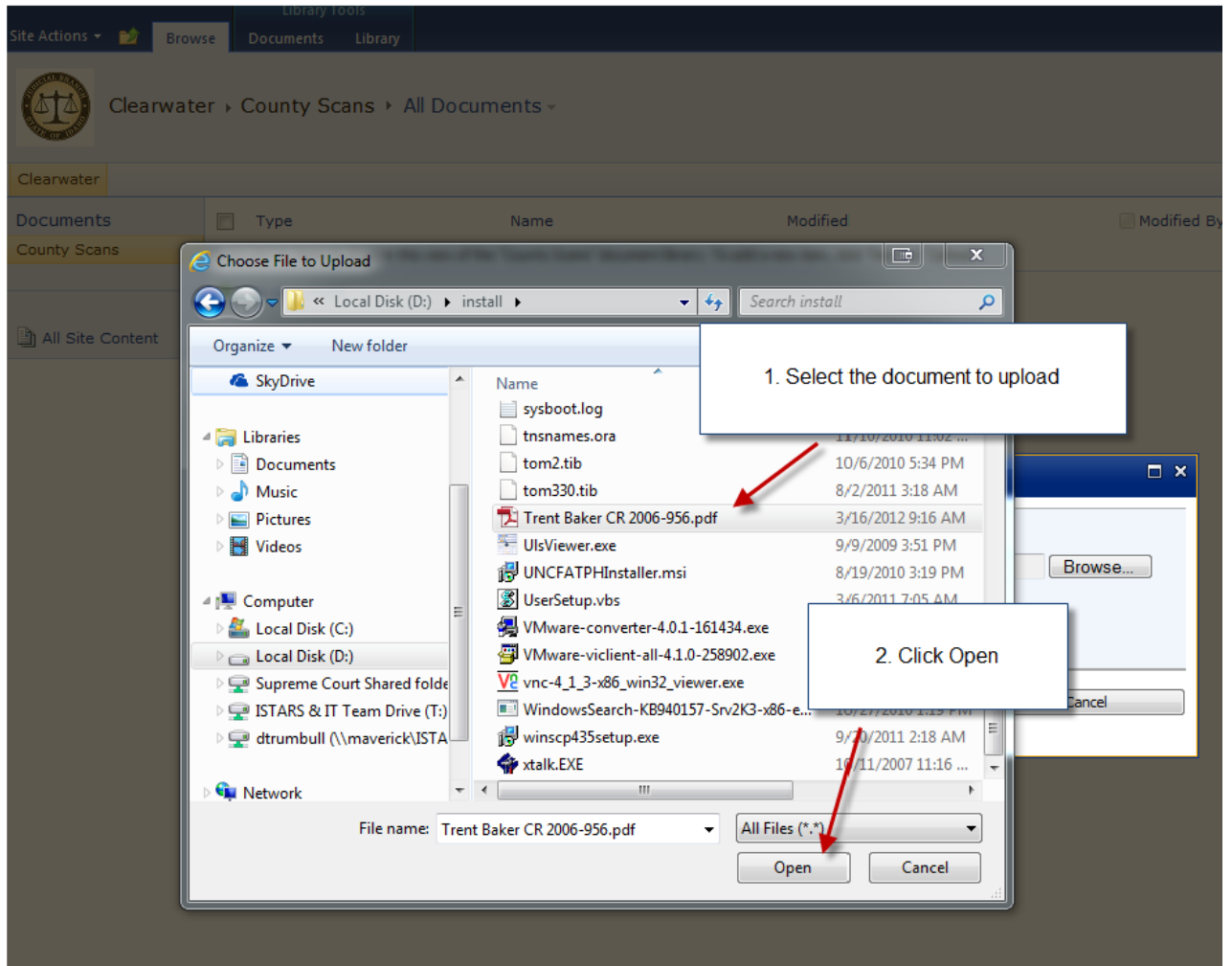
[Upload Multiple Files...](#)

Overwrite existing files

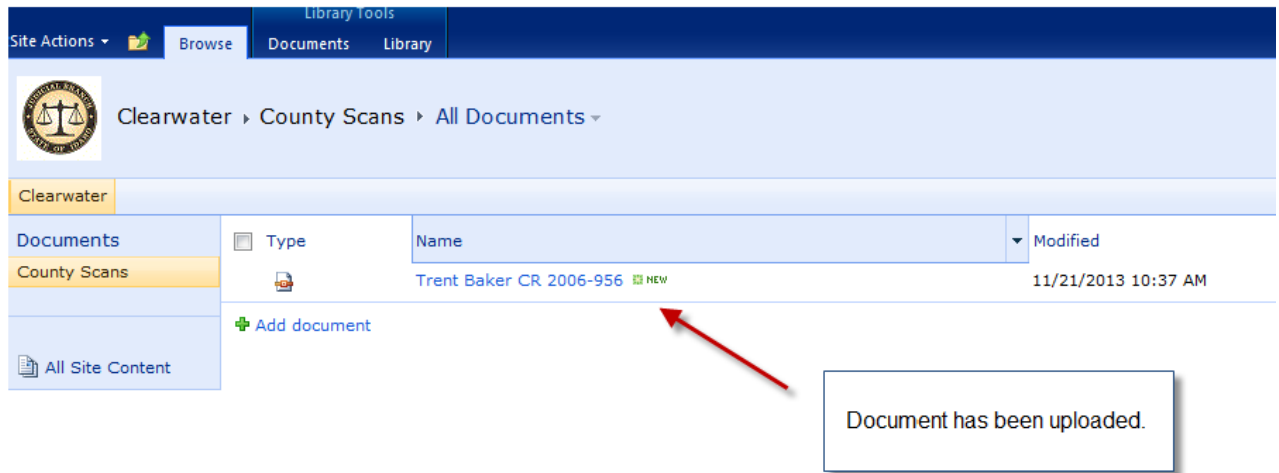
OK Cancel

If you would like to upload more than one document at a time, click this link. You can then drag and drop multiple documents into SharePoint.

- Open documents where recent scans are saved.
 1. Hold down the control button and highlight all files to be uploaded.
 2. Open file to be uploaded.



- You have successfully uploaded the files if the case number has a green exclamation point or green “New” next to the document name.



The screenshot shows a web interface for document management. At the top, there is a navigation bar with 'Site Actions', 'Browse', 'Documents', and 'Library'. Below this is a breadcrumb trail: 'Clearwater > County Scans > All Documents'. A sidebar on the left contains 'Clearwater', 'Documents', 'County Scans', and 'All Site Content'. The main content area displays a table with columns for 'Type', 'Name', and 'Modified'. A single document is listed: 'Trent Baker CR 2006-956' with a green 'NEW' indicator. A red arrow points to the 'NEW' indicator, and a callout box contains the text 'Document has been uploaded.'

Type	Name	Modified
	Trent Baker CR 2006-956 NEW	11/21/2013 10:37 AM

For additional information please contact Nanci Thaemert at nthaemert@idcourts.net or (208) 947-7458.

In the Supreme Court of the State of Idaho

IN RE: ADOPTION OF NEW IDAHO COURT)
ADMINISTRATIVE RULES 54.2 and 54.3) ORDER
_____)

The Court having reviewed recommendations by the Guardianship and Conservatorship Committee to amend the Idaho Court Administrative Rules, and the Court having approved the recommended amendments;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That NEW Idaho Court Administrative Rule 54.2, and the same is hereby, adopted as follows:

Rule 54.2. Guardianship Reports.

A. All guardians shall file with the court a report within 30 days following the anniversary of the appointment and:

1. At least annually thereafter;
2. When the court orders additional reports to be filed;
3. When the guardian resigns or is removed; and
4. When the guardianship is terminated unless the court determines that there is no need.

B. The guardian shall provide copies of any report filed by the guardian as ordered by the court.

C. A report shall be under oath or affirmation and shall state:

1. The address of the guardian and person under guardianship;
2. The current mental, physical, and social condition of the person under guardianship,

including family contact;

3. The living arrangements during the reporting period;
4. The medical, educational, vocational and other professional services provided to the person under guardianship and the guardian's opinion as to the adequacy of care for the person under guardianship;
5. A summary of the guardian's visits with and activities on behalf of the person under guardianship;
6. If the person under guardianship is institutionalized, whether the guardian agrees with the current treatment plan;
7. A description of any significant changes in the capacity of the person under guardianship to meet essential requirements for physical health or safety;
8. A recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship;
9. Any other information requested by the court or useful in the opinion of the guardian.

2. 1. That NEW Idaho Court Administrative Rule 54.3, and the same is hereby, adopted as follows:

Rule 54.3. Conservator Reports.

A. All conservators shall file with the Court:

1. An inventory within 90 days of appointment;
2. An accounting within 30 days of the anniversary date of the conservator's appointment and at least annually thereafter;
3. An accounting with any petition for resignation or termination of appointment of the conservator;
4. A final accounting within 30 days of the removal of the conservator; and
5. Any additional reports ordered by the court.

B. The conservator shall provide copies of any report filed by the conservator as ordered by the court.

C. Every report submitted by a conservator shall cover a specific time period stated in the report. The report shall cover the person under conservatorship's entire estate under the control of the

conservator. Supporting documentation for items in the report shall accompany the report unless:

1. It is voluminous or expensive to provide;
2. It contains sensitive or private information; or
3. Other good reasons exist for not providing it.

The report shall state:

- (i) The reasons for not providing the supporting documentation;
- (ii) That it is held by, or is reasonably available to, the conservator;
- (iii) And that it will be produced upon request.

D. An inventory shall contain:

1. The address of the conservator and person under conservatorship;
2. A description and fair market value of all assets or categories of assets at the date of appointment;
3. The method of determining fair market value of each item or category;
4. Encumbrances, which shall be specifically identified, including:
 - (i) The asset secured by the encumbrance;
 - (ii) The amount of the encumbrance at the date of appointment;
 - (iii) The holder of the encumbrance;
 - (iv) The relationship of the holder to the person under conservatorship, if known to the conservator;
 - (v) The relationship of the holder to the conservator; and
 - (vi) Any other relevant information.

E. An accounting shall contain:

1. The address of the conservator and person under conservatorship;
2. A detailed listing of everything of value received by the person under conservatorship, which may be reported in categories, including the source of the item, its fair market value and method of determining the fair market value;
3. A detailed listing of all payments made for the person under conservatorship, which may be reported in categories including:
 - (i) The amount;

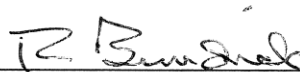
- (ii) To whom the payment was made;
 - (iii) The method or frequency of making each payment if not indicated by the item or category;
 - (iv) The consideration for each payment if not indicated by the item or category;
 - (v) The relationship of the recipient of each payment to the person under conservatorship if known to the conservator;
 - (vi) The conservator's relationship to the recipient of each payment;
 - (vii) The time period covered by each payment if relevant; and
 - (viii) Any other information relevant to each payment.
4. A listing of the net assets of the estate of the person under conservatorship at the end of the reporting period; and
5. Any other information relevant to the actions of the conservator during the reporting period.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective July 1, 2014.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 4 day of April 2014.

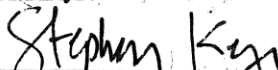
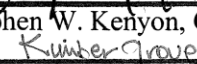
By Order of the Supreme Court



 Roger S. Burdick, Chief Justice

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.

WITNESS my hand and the Seal of this Court 4/4/14


 _____ Clerk
 Stephen W. Kenyon, Clerk
 By:  Deputy

HB 512

Provides that participation in the Idaho health insurance exchange shall not give rise to the presumption of indigency for the purpose of appointment of defense counsel in a criminal case.

The most recent approved application for attorney at public expense complies with this change in law. (See below.)

IN THE DISTRICT COURT OF THE ____ JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ____

STATE OF IDAHO,)	
)	
Plaintiff,)	Criminal No. CR
)	
vs.)	APPLICATION FOR ATTORNEY AT
)	PUBLIC EXPENSE
)	
Defendant.)	

I want to be represented by an attorney in this case and I cannot afford to hire one. I understand that it is important for me to be truthful in answering questions and providing information in this form, and that if I am not I may be subject to penalties for perjury.

I understand that the information in this form cannot be used against me in any criminal case, except:

- To dispute the truth of my testimony if I choose to testify in court.
- In a prosecution for perjury or contempt if I provide information in this form that I know is false.

Name and Contact Information			
Name:		Current address:	
Mailing address if different:		Date of birth:	
Cell phone number:		Home phone number:	
Employment			
Are you employed? (Circle One) Yes No Self-employed			
If Yes: Name and address of employer:			
How much do you earn per month? \$			
If No, give month and year of last employment:			
How much did you earn per month?			
Are you married? Spouse's name:			
Is your spouse employed: (Circle One) Yes No			
If Yes, name and address of employer:			
If Yes, how much does your spouse earn per month?			
Current Status			
Are you currently serving a sentence of incarceration for a crime for which you have been found guilty? (Circle One) Yes No			
If yes, in what jail, penitentiary or correctional facility are you being held?			
Are you currently housed in a mental health facility? (Circle One) Yes No			
If yes, what is the name of the mental health facility in which you are housed?			
Public Assistance and Other Payments			
Do you or any of your dependents receive public assistance, including Social Security Supplemental Income (SSI), Social Security Disability (SSD), Medicaid, AFDC, food stamps, or child care assistance? (Circle One) Yes No			
If Yes, list persons who receive the assistance, how they are related to you, the type of assistance or payment, and the monthly amount received.			
Dependents	Relationship	Type of Assistance	Monthly Amount

Other Income		
Within the past 12 months, have you received any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? (Circle One) Yes No		
If Yes, give the amount received and identify the sources.		
Source	Amount for the Past 12 Months	
Cash		
Do you have any cash on hand or money in savings or checking accounts? (Circle One) Yes No		
If Yes, what is the total amount?:		
Property		
Do you own any homes or land? (Circle One) Yes No		
County	State	Value minus amount you owe
Do you own any stocks, bonds, notes, coins, or precious metals? (Circle One) Yes No		
Property	Value	
Do you own any other items or property with a value in excess of \$1,000, excluding ordinary household furnishings and clothing? (Circle One) Yes No		
If yes, list the property and its value.		
Property	Value	
Dependents		
List the persons you actually support and your relationship to them.		
Name	Relationship	
Do you receive child support payments for any of the dependents you have listed? (Circle One) Yes No		
Name of Child	Monthly Amount	
Debts and Monthly Bills		
Nature of Debt	Monthly Amount	

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

(Date)

(Signature)

NOTICE: If an attorney is appointed to represent you at public expense, and if you plead guilty or are found guilty of any crime, you may be required by the court to reimburse the county for all or a portion of the cost of the legal services you have received.

SB 1353

This legislation clarifies the conditions in which a juvenile court judge has the authority to dismiss a case following a diversion or informal adjustment. The legislation also provides authority for a judge to set aside the adjudication of a juvenile who has completed a problem solving court program as well as dismiss and discharge that juvenile. The dismissal is permitted when the minor has satisfied the terms of his or her informal adjustment (or probation) and the court is convinced there is no longer a cause for continuing that informal adjustment (or probation) and it is compatible with the public interest.

Idaho Code section 20-511 allows a judge to divert a juvenile from a formal court proceeding and instead utilize the diversion process for informal adjustment / disposition. The new Idaho Code section 20-511(3) clarifies the conditions in which a dismissal and discharge is permitted following such an informal disposition. (*See discussion of conditions below.*)

New Idaho Code section 20-520A allows a juvenile court to dismiss a juvenile case upon a juvenile offender successfully completing and graduating from an authorized juvenile drug court program, juvenile mental health court program, or other authorized problem solving court program. This provision is similar to Idaho Code section 19-2604(b) that allows adult offenders to have their cases dismissed upon completion of authorized drug or mental health court program.

The two statutory changes are similar in their requirements. Both state the statutory remedy (§ 20-511: diversion / informal disposition and § 20-520A: dismissal / discharge) may be utilized by the court if a juvenile has:

- 1) Satisfied the terms or condition of their informal adjustment or probation (in the context of section 20-520A this includes the completion of an authorized drug, mental health, or other problem solving court program); and
- 2) The Judge is convinced by the showing made there is no longer a need for continuing the period of informal adjustment or probation;
- 3) The Judge determines the informal disposition or dismissal is “compatible with the public interest.”

NOTE: Section 20-511 requires a juvenile to submit an “application” to the court for consideration to be given regarding the dismissal of a case. As such the form below should be utilized by the juvenile to satisfy this requirement. This form is to be reviewed and signed by the juvenile with the assistance of his or her probation officer at the time of their last meeting following his or her satisfaction of the terms or conditions of the informal adjustment.

IN THE DISTRICT COURT OF THE ____ DISTRICT OF THE STATE OF IDAHO,

IN AND FOR THE COUNTY OF _____

In the Interest of:

A Juvenile.

Case No. _____

Petition No. _____

PETITION FOR DISMISSAL

I hereby petition the Court for a dismissal of this case. I have satisfied the terms and/or conditions of the informal adjustment ordered by the Court. There is no longer cause for continuing the period of informal adjustment. Finally, my request is compatible with the public interest. Based on the above, I ask that the Court find this case appropriate for dismissal.

Date: _____, 20__

Signature

Typed/printed name

SB 1357

The “Justice Reinvestment” legislation includes a wide range of new statutes and amendments to existing statutes aimed at improving public safety, reducing recidivism and slowing growth in Idaho’s inmate population. The primary goal of the legislation is to strengthen probation and parole supervision and diversion programs, structure parole to prioritize prison space for violent offenders, focus resources in the community on reducing recidivism, and evaluate programs and validate risk assessments to ensure taxpayer dollars are used wisely. The law has a staggered implementation as described below.

This legislation is the product of Idaho's data-driven "justice reinvestment" approach. It strives to increase public safety and contain the cost of corrections. The policies in this legislation address three challenges facing the state's criminal justice system: a revolving door of recidivism from supervision and diversion programs, inefficient use of prison space, and insufficient oversight of recidivism-reduction investments.

Overview of Senate Bill 1357

The legislation is divided into 20 sections described below and organized by the date the sections become effective. (The * indicates the changes that affect the district courts.)

Effective July 1, 2014

I. 19-2517: Requires the presentence investigation report to include current recidivism rates based on offender risk levels of low, moderate or high.

II. 19-2521: Deletes subsection (3) which provided: “When a person who has been convicted of a crime is not sentenced to imprisonment, the court may place the defendant on probation if the supervision, guidance, assistance or direction is needed that the probation service has the resources to provide.”

III. 19-2524: Bases level of care for substance abuse treatment on each probationer’s risk assessment with priority to those with high or moderate risk levels; mental health exams and treatment shall be secured by the Department of Health and Welfare (“DHW” or “H&W”) which will also assist defendants in gaining access to health care benefits to cover the treatment and otherwise pay for mental health treatment; defendants to pay the fee for mental health exams and treatment consistent with DHW rules.

V. *19-2606: Requires defendant with suspended sentence to report on compliance with terms of suspension as ordered by the court. The court may then modify its terms and conditions of the suspended sentence or vacate the suspension and order retained jurisdiction or execution of the judgment as though suspension had not been made.

VII. 20-210A: Authorizes Parole Board to commute or pardon fines and restitution and to promulgate rules to establish the procedures under which an eligible prisoner may be released on parole.

VIII. 20-216: Requires Board of Corrections and H&W to submit annual joint report to legislature by January 15th on the criminogenic needs of probationers and parolees, adequacy of funding to address those needs, and any gap in funding to meet treatment needs of all moderate and high risk probationers and parolees. Starting November 2015 the board is to deliver an annual report to the governor and the legislature evaluating programs to reduce recidivism funded by the state.

X. *20-221: Authorizes any party or the Idaho Department of Correction (“IDOC”) to apply directly to the court to modify or terminate probation with a copy to the prosecuting attorney (who shall notify the victim). The statement shall be supported by a statement attested to under oath or signed under penalty of perjury. The court shall rule on the request within 60 days and may do so without a hearing.

XI. *20-222: Period of probation shall be fixed by the court. Court is to consider the defendant’s needs and risks and options for treatment in the community in determining to continue or revoke probation.

XII. 20-223: IDOC is to promulgate rules in consultation with the parole commission to prepare prisoners for parole upon completion of fixed time and give access to programming so they have a chance to complete it prior to completion of fixed portion of sentence. The intent is to focus prison space on the most violent or greatest risk offenders. IDOC and parole commission to submit an annual report describing percent of people sentenced to a term in prison for a property or drug offense who are released before 150% of the fixed portion of the sentence, and documenting the most common reasons for delayed or denial of release.

XIII. 20-224: Requires IDOC to validate risk assessments every five years in consultation with Parole Commission and to develop rules to ensure validated risk assessments are used in making parole decisions.

XVIII. 20-233: Authorizes IDOC to make request to the commission for an order of final discharge from parole.

XIX. 19-2513: Breaks the current statute on unified sentencing into three subsections and updates subsection numbers but makes no substantive changes.

Effective March 1, 2015

IV. *19-2601: The court shall include in the terms and conditions of supervised probation a requirement that defendants enter into and comply with an agreement of supervision with IDOC that shall include provisions setting potential sanctions for violation and potential rewards for compliance. (The agreement of supervision will be developed with statewide review and input by January 1, 2015.)

VI. 20-209H: Authorizes IDOC to apply 20% of each deposit into an inmate's account to court ordered restitution.

IX. *20-219: Clarifies that IDOC is to supervise those placed on probation to IDOC; deliver programming; requires reporting of alleged probation violations to court and prosecuting

attorney; level of supervision is for IDOC to determine unless probation is being supervised by problem solving courts; requires IDOC to use evidence based practices and give priority to high and moderate risk offenders, and requires IDOC to provide probation officers with initial and ongoing training. In consultation with the Supreme Court, IDOC is to promulgate rules to establish a program of limited supervision and to establish a matrix of sanctions and rewards for violations or compliance with the terms of probation. (Rules to be developed by November 8, 2014.)

XIV. *20-227: Makes the agent warrant process applicable to discretionary jail time, requiring notice to prosecuting attorney and requiring sworn probable cause statement and probable cause determination within 48 hours of arrest.

XV. 20-228: Requires Parole Commission to make offender enter into written agreement of supervision with sanctions and rewards.

XVI. 20-229A: Provides for expedited determination of parole violation by commission where offender waives right to hearing.

XVII. 20-229B: Limits periods of confinement for first and second parole violators who have not committed a new felony or serious misdemeanor, and limits period of confinement for absconders: Allows for "good time" of up to 30 days if no misconduct during this confinement.

January 1, 2016

XX. 20-250: Requires IDOC to make a yearly report to the legislature re: savings and prison population impacts attributable to Justice Reinvestment Initiative by February 1st each year.

NOTE: We intend to supplement this section regularly as the Supreme Court and its various workgroups progress through the implementation of this significant legislation.

Progress relevant to the courts:

As indicated above, commencing July 1, 2014, per Idaho Code section 19-2517, the district judges should see PSI reports with current recidivism rates based on offender risk levels (low, moderate, or high). The recidivism rates are derived by using the Idaho Department of Correction's ("IDOC") definition of recidivism.

Also commencing July 1, 2014, 20-221 authorizes any party or the IDOC to apply directly to the court to modify or terminate probation with a copy to the prosecuting attorney (who shall notify the victim). We anticipate that the district courts will begin to receive "Request for Discharge" forms from the Idaho Department of Correction soon after the July 1, 2014 effective date. We are working to develop a standard order for the district judges' use. This order will be distributed for use as soon as possible through the Court's E-News.

Finally, please note that the IDAPA rules contemplated under section 20-219 and developed by the IDOC in consultation with the Supreme Court are being drafted and are planned to be

implemented by November 8, 2014 subject to revision and / or rejection by the Idaho Legislature. As part of this process, district judges will be asked to review and offer input regarding the proposed rules in August and at the upcoming September Judicial Conference.