

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 358

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO SUSPENSION OF JUDGMENT AND SENTENCE; AMENDING SECTION 19-2601, IDAHO CODE, TO PROVIDE THAT THE COURT MAY RETAIN JURISDICTION OVER CERTAIN PRISONERS FOR A CERTAIN PERIOD OF TIME.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 19-2601, Idaho Code, be, and the same is hereby amended to read as follows:

19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PROBATION. Whenever any person shall have been convicted, or enter a plea of guilty, in any district court of the state of Idaho, of or to any crime against the laws of the state, except those of treason or murder, the court in its discretion may:

1. Commute the sentence and confine the defendant in the county jail, or, if the defendant is of proper age, commit the defendant to the custody of the state department of juvenile corrections;

2. Suspend the execution of the judgment at the time of judgment or at any time during the term of a sentence in the county jail and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate;

3. Withhold judgment on such terms and for such time as it may prescribe and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate; or

4. Suspend the execution of the judgment at any time during the first three hundred sixty-five (365) days of a sentence to the custody of the state board of correction. The court ~~shall~~ may retain jurisdiction over the prisoner for a period of up to the first three hundred sixty-five (365) days. Except as provided for in section 19-2601A, Idaho Code, during the period of retained jurisdiction, the state board of correction shall be responsible for determining the placement of the prisoner and such education, programming and treatment as it determines to be appropriate. The prisoner will remain committed to the board of correction if not affirmatively placed on probation by the court. In extraordinary circumstances, where the court concludes that it is unable to obtain and evaluate the relevant information within the period of retained jurisdiction, or where the court concludes that a hearing is required and is unable to obtain the defendant's presence for such a hearing within such period, the court may decide whether to place the defendant on probation or release jurisdiction within a reasonable time, not to exceed thirty (30) days, after the period of retained jurisdiction has expired. Placement on probation shall be under such terms and conditions as the court deems necessary and appropriate. The court in its discretion may sentence a defendant to more than one (1) period of retained jurisdiction after a defendant has been placed on probation in a case or following

1 release from commitment to the department of juvenile corrections pursuant
2 to section 19-2601A, Idaho Code. In no case shall the board of correction
3 or its agent, the department of correction, be required to hold a hearing
4 of any kind with respect to a recommendation to the court for the grant or
5 denial of probation. Probation is a matter left to the sound discretion of
6 the court. Any recommendation made by the state board of correction to the
7 court regarding the prisoner shall be in the nature of an addendum to the
8 presentence report. The board of correction and its agency, the department
9 of correction, and their employees shall not be held financially responsible
10 for damages, injunctive or declaratory relief for any recommendation made to
11 the district court under this section.

12 5. If the crime involved is a felony and if judgment is withheld as pro-
13 vided in subsection 3. of this section or if judgment and a sentence of cus-
14 tody to the state board of correction is suspended at the time of judgment in
15 accordance with subsection 2. of this section or as provided by subsection
16 4. of this section, the court may place the defendant on probation. If the
17 court places the defendant on probation to the board of correction, the court
18 shall include in the terms and conditions of probation a requirement that
19 the defendant enter into and comply with an agreement of supervision with the
20 board of correction. The agreement of supervision shall include provisions
21 setting forth the potential sanctions for a violation of the terms or condi-
22 tions imposed and potential rewards for compliance with the terms and con-
23 ditions imposed, as such sanctions and rewards are set forth in rules of the
24 board of correction.

25 6. If the crime involved is a misdemeanor, indictable or otherwise, or
26 if the court should suspend any remaining portion of a jail sentence already
27 commuted in accordance with subsection 1. of this section, the court, if it
28 grants probation, may place the defendant on probation.

29 7. The period of probation ordered by a court under this section under
30 a conviction or plea of guilty for a misdemeanor, indictable or otherwise,
31 may be for a period of not more than two (2) years; provided that the court
32 may extend the period of probation to include the period of time during which
33 the defendant is a participant in a problem solving court program and for a
34 period of up to one (1) year after a defendant's graduation or termination
35 from a problem solving court program. Under a conviction or plea of guilty
36 for a felony the period of probation may be for a period of not more than the
37 maximum period for which the defendant might have been imprisoned.