

IN THE SENATE

SENATE BILL NO. 1118

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO POWERS AND DUTIES OF THE BOARD OF COUNTY COMMISSIONERS; AMEND-  
2 ING SECTION 31-878, IDAHO CODE, TO REQUIRE THAT THE BOARD OF COUNTY  
3 COMMISSIONERS PROVIDE FOR MISDEMEANOR PROBATION SERVICES THROUGH EM-  
4 PLOYMENT OF STAFF, CONTRACT OR ANY OTHER PROCESS THAT WILL ACCOMPLISH  
5 CERTAIN PURPOSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION  
6 31-3201D, IDAHO CODE, TO PROVIDE THAT A FEE BE USED TO OFFSET CERTAIN  
7 COSTS TO COUNTIES FOR CERTAIN TRAINING, EDUCATION AND CERTIFICATION OF  
8 MISDEMEANOR PROBATION OFFICERS WHETHER SUCH OFFICERS ARE EMPLOYEES OF  
9 OR BY PRIVATE SECTOR CONTRACT WITH A COUNTY; AMENDING SECTION 19-5109,  
10 IDAHO CODE, TO GRANT A CERTAIN COUNCIL THE AUTHORITY TO ESTABLISH CER-  
11 TAIN TRAINING, EDUCATION AND CERTIFICATION STANDARDS FOR MISDEMEANOR  
12 PROBATION OFFICERS WHETHER SUCH OFFICERS ARE EMPLOYEES OF OR BY PRIVATE  
13 SECTOR CONTRACT WITH A COUNTY AND TO MAKE A TECHNICAL CORRECTION; AND  
14 AMENDING SECTION 19-5116, IDAHO CODE, TO REQUIRE THAT MONEYS RECEIVED  
15 INTO A CERTAIN FUND BE USED FOR SPECIFIED PURPOSES AND TO MAKE TECHNICAL  
16 CORRECTIONS.  
17

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

19 SECTION 1. That Section 31-878, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 31-878. MISDEMEANOR PROBATION SERVICES. The board of county com-  
22 missioners shall provide for misdemeanor probation services to supervise  
23 misdemeanor offenders, in those cases where such probation supervision has  
24 been ordered by the sentencing court, and perform such functions as pre-  
25 scribed by the administrative district judge in each judicial district. The  
26 board of county commissioners shall provide for misdemeanor probation ser-  
27 vices through employment of staff, contract or any other process that will  
28 accomplish the purposes of this section. Counties shall not be obligated  
29 to provide misdemeanor probation services beyond the funds generated by the  
30 fees collected pursuant to the provisions of section 31-3201D, Idaho Code,  
31 and any additional funds that may be annually appropriated by the board of  
32 county commissioners.

33 SECTION 2. That Section 31-3201D, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 31-3201D. COUNTY MISDEMEANOR PROBATION SUPERVISION FEE. (1) Any per-  
36 son under a supervised probation program for a misdemeanor offense shall be  
37 required to pay an amount not more than the maximum monthly felony proba-  
38 tion or parole supervision fee set forth in section 20-225, Idaho Code, per  
39 month, or such lesser sum as determined by the administrative judge of the  
40 judicial district, as a misdemeanor probation supervision fee. Any failure

1 to pay such fee shall constitute grounds for the revocation of probation by  
 2 the court, but this shall not be the exclusive remedy for its collection. The  
 3 court for good cause may exempt a person from the payment of all or any part of  
 4 the foregoing fee.

5 (2) Any fee paid under this section on or after July 1, 2008, and regard-  
 6 less of whether the underlying judgment of conviction, withheld judgment or  
 7 order imposing probation was entered before or after that date, shall be paid  
 8 to the clerk of the district court, who shall pay the first one dollar (\$1.00)  
 9 of each monthly payment to the state treasurer for deposit in the peace offi-  
 10 cers standards and training fund authorized in section 19-5116, Idaho Code,  
 11 to help offset the costs to counties for the basic training, ~~and~~ continuing  
 12 education and certification of misdemeanor probation officers whether those  
 13 officers are employees of or by private sector contract with a county; the  
 14 clerk of the district court shall deposit the remainder of each monthly pay-  
 15 ment into the county misdemeanor probation fund which is hereby created in  
 16 each county, or at the option of the board of county commissioners, deposited  
 17 in the county justice fund to be used for the purposes described in this sec-  
 18 tion. Moneys from this fee may be accumulated from year to year and shall be  
 19 expended exclusively for county misdemeanor probation services and related  
 20 purposes.

21 SECTION 3. That Section 19-5109, Idaho Code, be, and the same is hereby  
 22 amended to read as follows:

23 19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND  
 24 EMPLOYMENT OF PEACE OFFICERS -- CERTIFICATION -- PENALTIES. (1) It shall be  
 25 the duty of and the council shall have the power:

26 (a) To establish the requirements of minimum basic training which peace  
 27 officers shall complete in order to be eligible for permanent employ-  
 28 ment as peace officers, and the time within which such basic training  
 29 must be completed. One (1) component of minimum basic training shall be  
 30 a course in the investigation of and collection of evidence in cases in-  
 31 volving an allegation of sexual assault or battery.

32 (b) To establish the requirements of minimum education and training  
 33 standards for employment as a peace officer in probationary, temporary,  
 34 part-time, and/or emergency positions.

35 (c) To establish the length of time a peace officer may serve in a proba-  
 36 tionary, temporary, and/or emergency position.

37 (d) To approve, deny approval or revoke the approval of any institution  
 38 or school established by the state or any political subdivision or any  
 39 other party for the training of peace officers.

40 (e) To establish the minimum requirements of courses of study, atten-  
 41 dance, equipment, facilities of all approved schools, and the scholas-  
 42 tic requirement, experience and training of instructors at all approved  
 43 schools.

44 (f) To establish such other requirements for employment, retention and  
 45 promotion of peace officers, including minimum age, physical and men-  
 46 tal standards, citizenship, moral character, experience and such other  
 47 matters as relate to the competence and reliability of peace officers.

1 (g) To certify peace officers as having completed all requirements es-  
2 tablished by the council in order to be eligible for permanent employ-  
3 ment as peace officers in this state.

4 (h) To receive and file for record copies of merit regulations or local  
5 ordinances passed by any political subdivision.

6 (i) To maintain permanent files and transcripts for all peace officers  
7 certified by the council to include any additional courses or ~~advance~~  
8 advanced courses of instruction successfully completed by such peace  
9 officers while employed in this state and to include the law enforcement  
10 employment history by agency and dates of service of the officer. Such  
11 information shall be made available to any law enforcement agency upon  
12 request when a person applies for employment at the requesting law en-  
13 forcement agency.

14 (j) To allow a peace officer of a federally recognized Indian tribe  
15 within the boundaries of this state to attend the peace officer stan-  
16 dards and training academy if said peace officer meets minimum physical  
17 and educational requirements of the academy. The Indian tribal law  
18 enforcement agency shall reimburse the peace officer standards and  
19 training academy for the officer's training. Upon satisfactory com-  
20 pletion of the peace officer standards and training academy, the tribal  
21 peace officer shall receive a certificate of satisfactorily completing  
22 the academy.

23 (2) After January 1, 1974, any peace officer as defined in section  
24 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected  
25 official or deputy serving civil process, the deputy director of the Idaho  
26 state police, or any person serving under a temporary commission with any  
27 law enforcement agency in times of natural or man-caused disaster declared  
28 to be an emergency by the board of county commissioners or by the governor  
29 of the state of Idaho, or those peace officers whose primary duties involve  
30 motor vehicle parking and animal control pursuant to city or county ordi-  
31 nance, or any peace officer acting under a special deputy commission from the  
32 Idaho state police, shall be certified by the council within one (1) year of  
33 employment; provided, however, that the council may establish criteria dif-  
34 ferent than that required of other peace officers for certification of city  
35 police chiefs or administrators within state agencies having law enforce-  
36 ment powers, who, because of the number of full-time peace officers they  
37 supervise, have duties which are primarily administrative. Any such chief  
38 of police or state agency administrator employed in such capacity prior to  
39 July 1, 1987, shall be exempt from certification.

40 (3) No peace officer shall have or exercise any power granted by any  
41 statute of this state to peace officers unless such person shall have been  
42 certified by the council within one (1) year of the date upon which such per-  
43 son commenced employment as a peace officer, except in cases where the coun-  
44 cil, for good cause and in writing, has granted additional time to complete  
45 such training. The council shall decertify any officer who is convicted of  
46 any felony or offense which would be a felony if committed in this state. The  
47 council may decertify any officer who:

48 (a) Is convicted of any misdemeanor;

49 (b) Willfully or otherwise falsifies or omits any information to obtain  
50 any certified status; or

1 (c) Violates any of the standards of conduct as established by the council's code of ethics, as adopted and amended by the council.

2 All proceedings taken by the council shall be conducted in accordance  
3 with chapter 52, title 67, Idaho Code.

4 (4) Any law enforcement agency as defined in section 19-5101(c), Idaho  
5 Code, in which any peace officer shall resign as a result of any disciplinary  
6 action or in which a peace officer's employment is terminated as a result  
7 of any disciplinary action, shall, within fifteen (15) days of such action,  
8 make a report to the council.

9 (5) The council shall, pursuant to the requirements of this section,  
10 establish minimum basic training and certification standards for county de-  
11 tention officers that can be completed within one (1) year of employment as a  
12 county detention officer.

13 (6) The council may, upon recommendation of the juvenile training council  
14 and pursuant to the requirements of this section, implement minimum ba-  
15 sic training and certification standards for juvenile detention officers,  
16 juvenile probation officers, and employees of the Idaho department of juve-  
17 nile corrections who are engaged in the direct care and management of juve-  
18 niles.

19 (7) The council may, upon recommendation of the correction standards  
20 and training council, and pursuant to the requirements of this section, es-  
21 tablish minimum basic training and certification standards for state cor-  
22 rection officers and for adult probation and parole officers.

23 (8) The council may, upon recommendation of a probation training advi-  
24 sory committee and pursuant to the requirements of this section, establish  
25 minimum basic training, continuing education and certification standards  
26 for misdemeanor probation officers whether those officers are employees of  
27 or by private sector contract with a county.

28 (9) The council may reject any applicant for certification who has been  
29 convicted of a misdemeanor, and the council shall reject an applicant for  
30 certification who has been convicted of a felony, the punishment for which  
31 could have been imprisonment in a federal or state penal institution.

32 (10) As used in this section, "convicted" means a plea or finding of  
33 guilt, notwithstanding the form of judgment or withheld judgment, regard-  
34 less of whether the sentence is imposed, suspended, deferred or withheld,  
35 and regardless of whether the plea or conviction is set aside or withdrawn or  
36 the case is dismissed or reduced under section 19-2604, Idaho Code, or any  
37 other comparable statute or procedure where the setting aside of the plea or  
38 conviction, or dismissal or reduction of the case or charge, is based upon  
39 lenity or the furtherance of rehabilitation rather than upon any defect in  
40 the legality or factual basis of the plea, finding of guilt or conviction.

41 SECTION 4. That Section 19-5116, Idaho Code, be, and the same is hereby  
42 amended to read as follows:  
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44 19-5116. PEACE OFFICERS STANDARDS AND TRAINING FUND. (a) There is  
45 hereby established in the state treasury, the peace officers standards and  
46 training fund. All moneys deposited to the fund shall be expended by the  
47 peace officers standards and training council for the following purposes:

48 (1) Training peace officers, county detention officers, and self-spon-  
49 sored students, within the state of Idaho, including, but not limited

1 to, sheriffs and their deputies, officers of the Idaho state police and  
2 conservation officers of the Idaho department of fish and game, and city  
3 and county prosecutors and their deputies;

4 (2) Salaries, costs and expenses relating to such training as provided  
5 in subsection (1) of this section;

6 (3) Such capital expenditures as the peace officers standards and  
7 training council may provide, for the acquisition, construction and/or  
8 improvement of a peace officers standards and training academy; and

9 (4) Such expenditures as may be necessary to aid approved peace offi-  
10 cers training programs or county detention officer programs certified  
11 as having met the standards established by the peace officers standards  
12 and training council.

13 (b) The peace officers standards and training fund shall be funded as  
14 provided in sections 31-3201A and 31-3201B, Idaho Code.

15 (c) All contributions and other moneys and appropriations which are  
16 designated for peace officers standards and training shall be deposited in  
17 the peace officers standards and training fund.

18 (d) Moneys received into the fund as provided in subsection (c) of this  
19 section, shall be accounted for separately.

20 (e) If the fiscal year-end balance in the fund pursuant to sections  
21 31-3201A and 31-3201B, Idaho Code, exceeds one million dollars (\$1,000,000)  
22 the excess shall revert to the general fund.

23 (f) Moneys received into the fund pursuant to the provisions of sec-  
24 tion 31-3201D, Idaho Code, shall be used for the purposes of providing basic  
25 training, continuing education and certification of misdemeanor probation  
26 officers whether those officers are employees of or by private sector con-  
27 tract with a county.