

IN THE SENATE

SENATE BILL NO. 1215

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO ESCAPE OR RESCUE OF PRISONERS; REPEALING SECTION 18-2503, IDAHO
2 CODE, RELATING TO CARRYING PRISONER THINGS TO AID ESCAPE; REPEALING
3 SECTION 18-2510, IDAHO CODE, RELATING TO ILLICIT CONVEYANCE OF ARTI-
4 CLES INTO CORRECTIONAL FACILITIES; REPEALING SECTION 18-2511, IDAHO
5 CODE, RELATING TO POSSESSION OF A CONTROLLED SUBSTANCE OR DANGEROUS
6 WEAPON; AMENDING CHAPTER 25, TITLE 18, IDAHO CODE, BY THE ADDITION OF
7 A NEW SECTION 18-2510, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL TO
8 POSSESS, INTRODUCE OR REMOVE CERTAIN ARTICLES INTO OR FROM CORRECTIONAL
9 FACILITIES, TO PROVIDE PENALTIES AND TO DEFINE TERMS; AMENDING SECTION
10 19-5506, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 327, LAWS OF 2005,
11 TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTION 32-1410, IDAHO
12 CODE, TO PROVIDE CORRECT CODE REFERENCES.
13

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

15 SECTION 1. That Sections [18-2503](#), [18-2510](#) and [18-2511](#), Idaho Code, be,
16 and the same are hereby repealed.

17 SECTION 2. That Chapter 25, Title 18, Idaho Code, be, and the same is
18 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
19 ignated as Section 18-2510, Idaho Code, and to read as follows:

20 18-2510. POSSESSION, INTRODUCTION OR REMOVAL OF CERTAIN ARTICLES INTO
21 OR FROM CORRECTIONAL FACILITIES. (1) No person including a prisoner, except
22 as authorized by law or with permission of the facility head, shall know-
23 ingly:

24 (a) Introduce, or attempt to introduce, contraband into a correctional
25 facility or the grounds of a correctional facility; or

26 (b) Convey, or attempt to convey, contraband to a prisoner confined in a
27 correctional facility; or

28 (c) Possess, or attempt to possess, contraband within a correctional
29 facility; or

30 (d) Receive, obtain or remove, or attempt to receive, obtain or remove,
31 contraband from a correctional facility.

32 (2) Any person including a prisoner who violates any provision of sub-
33 section (1) of this section shall be guilty of a misdemeanor and on convic-
34 tion thereof shall be punished by imprisonment in the county jail for a pe-
35 riod not exceeding one (1) year or by a fine not exceeding one thousand dol-
36 lars (\$1,000), or by both such imprisonment and fine.

37 (3) No person including a prisoner, except as authorized by law or with
38 permission of the facility head, shall knowingly:

39 (a) Introduce, or attempt to introduce, major contraband into a correc-
40 tional facility or the grounds of a correctional facility; or

1 (b) Convey, or attempt to convey, major contraband to a prisoner con-
2 fined in a correctional facility; or

3 (c) Possess, or attempt to possess, major contraband within a correc-
4 tional facility; or

5 (d) Receive, obtain or remove, or attempt to receive, obtain or remove,
6 major contraband from a correctional facility.

7 (4) Any person including a prisoner who violates any provision of
8 subsection (3) of this section shall be guilty of a felony and on convic-
9 tion shall be punished by imprisonment in the state prison for a period not
10 exceeding five (5) years or by a fine not exceeding ten thousand dollars
11 (\$10,000), or by both such imprisonment and fine.

12 (5) As used in this section:

13 (a) "Contraband" means any article or thing that a prisoner confined in
14 a correctional facility is prohibited by statute, rule or policy from
15 obtaining or possessing and the use of which could endanger the safety
16 or security of the correctional facility, any person therein or the pub-
17 lic.

18 (b) "Correctional facility" means a correctional facility as defined
19 in section 18-101A, Idaho Code.

20 (c) "Major contraband" means:

21 (i) Any controlled substance as defined in section 37-2701(e),
22 Idaho Code;

23 (ii) Any tobacco product in excess of three (3) ounces;

24 (iii) Any firearm or dangerous weapon including explosives or com-
25 bustibles or any plans or materials that may be used in the making
26 or manufacturing of such weapons, explosives or devices;

27 (iv) Any telecommunication equipment or component hardware in-
28 cluding, but not limited to, any device carried, worn or stored
29 that is designed or intended to receive or transmit verbal or writ-
30 ten messages, access or store data or connect electronically to
31 the internet or any other electronic device that allows communi-
32 cations in any form. Such devices include, but are not limited to,
33 cellular telephones, portable two-way pagers, hand-held radios,
34 global position satellite system equipment, subscriber identity
35 module (SIM) cards, portable memory chips, batteries, chargers,
36 blackberry-type devices or smart phones, personal digital assis-
37 tants or PDA's and laptop computers. The term also includes any
38 new technology that is developed for similar purposes. Excluded
39 from this definition is any device having communication capabili-
40 ties that has been approved by the facility head for investigative
41 or institutional security purposes or for conducting other offi-
42 cial business;

43 (v) Any object or instrument intended or reasonably likely to
44 be used in the planning or aiding in an escape or attempted escape
45 from a correctional facility.

46 (d) "Prisoner" means a prisoner or a juvenile offender as those terms
47 are defined in section 18-101A, Idaho Code.

48 SECTION 3. That Section 19-5506, Idaho Code, as amended by Section 1,
49 Chapter 327, Laws of 2005, be, and the same is hereby amended to read as fol-
50 lows:

1 19-5506. SCOPE OF LAW -- OFFENDERS SUBJECT TO SAMPLE COLLECTION --
 2 EARLY COLLECTION OF SAMPLES -- RESTITUTION. (a) Any person, including any
 3 juvenile tried as an adult, who is convicted of, or pleads guilty to, any of
 4 the following crimes, regardless of the form of judgment or withheld judg-
 5 ment, and regardless of the sentence imposed or disposition rendered, shall
 6 be required to provide to the Idaho state police, a DNA sample and a right
 7 thumbprint impression:

- 8 (1) Arson (sections 18-802, 18-803, 18-804 and 18-805, Idaho Code);
- 9 (2) Aggravated assault (section 18-905, Idaho Code);
- 10 (3) Aggravated battery (section 18-907, Idaho Code);
- 11 (4) Assault with the intent to commit a serious felony (section 18-909,
 12 Idaho Code);
- 13 (5) Battery with the intent to commit a serious felony (section 18-911,
 14 Idaho Code);
- 15 (6) Felonious administering of drugs (sections 18-913 and 18-914,
 16 Idaho Code);
- 17 (7) Assault or battery upon certain personnel (section 18-915, Idaho
 18 Code);
- 19 (8) Removing a firearm from a law enforcement officer (section 18-915A,
 20 Idaho Code);
- 21 (9) Propelling bodily fluid or waste (section 18-915B, Idaho Code);
- 22 (10) Domestic violence (section 18-918, Idaho Code, constituting a
 23 felony);
- 24 (11) Burglary (sections 18-1401 and 18-1405, Idaho Code), except those
 25 convictions in which the defendant entered a retail mercantile es-
 26 tablishment and the offense took place when the victim was open to the
 27 public for business and the defendant committed a theft and his actions
 28 did not constitute grand theft as defined in chapter 24, title 18, Idaho
 29 Code;
- 30 (12) Injury to a child (section 18-1501(1), Idaho Code);
- 31 (13) Sexual abuse of a child under the age of sixteen years (section
 32 18-1506, Idaho Code);
- 33 (14) Ritualized abuse of a child (section 18-1506A, Idaho Code);
- 34 (15) Possession of sexually exploitive material for other than a com-
 35 mercial purpose (section 18-1507A, Idaho Code);
- 36 (16) Lewd conduct with minor child under sixteen (section 18-1508,
 37 Idaho Code);
- 38 (17) Sexual battery of a minor child sixteen or seventeen years of age
 39 (section 18-1508A, Idaho Code);
- 40 (18) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);
- 41 (19) Sale or barter of a child (section 18-1511, Idaho Code);
- 42 (20) ~~Possession of a controlled substance or dangerous weapon~~
 43 Introduce, convey, possess, receive, obtain or remove major contraband
 44 (section 18-2514(3), Idaho Code);
- 45 (21) False reports of explosives (section 18-3313, Idaho Code);
- 46 (22) Unlawful possession of a firearm (section 18-3316, Idaho Code);
- 47 (23) Unlawful discharge of a firearm (section 18-3317, Idaho Code);
- 48 (24) Unlawful possession or use of bombs or destructive devices (sec-
 49 tions 18-3319 and 18-3320, Idaho Code);
- 50 (25) Use of weapons of mass destruction (section 18-3322, Idaho Code);

- 1 (26) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
- 2 (27) Manslaughter (sections 18-4006(1) or (2) and 18-4007, Idaho Code);
- 3 (28) Administering poison with intent to kill (section 18-4014, Idaho
- 4 Code);
- 5 (29) Assault with intent to murder (section 18-4015, Idaho Code);
- 6 (30) Indecent exposure (section 18-4116, Idaho Code), constituting a
- 7 felony;
- 8 (31) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
- 9 (32) Forest sabotage (section 18-4631, Idaho Code);
- 10 (33) Mayhem (sections 18-5001 and 18-5002, Idaho Code);
- 11 (34) Cannibalism (section 18-5003, Idaho Code);
- 12 (35) Poisoning food, medicine or wells (section 18-5501, Idaho Code);
- 13 (36) Interstate trafficking in prostitution (section 18-5601, Idaho
- 14 Code);
- 15 (37) Inducing a minor into prostitution (section 18-5609, Idaho Code);
- 16 (38) Rape (section 18-6101, Idaho Code);
- 17 (39) Male rape (sections 18-6108 and 18-6109, Idaho Code);
- 18 (40) Sexual contact with a prisoner (section 18-6110, Idaho Code);
- 19 (41) Video voyeurism (section 18-6609, Idaho Code);
- 20 (42) Robbery (section 18-6501, Idaho Code);
- 21 (43) Incest (section 18-6602, Idaho Code);
- 22 (44) Crime against nature (section 18-6605, Idaho Code);
- 23 (45) Forcible sexual penetration (section 18-6608, Idaho Code);
- 24 (46) Removal, destruction or burning of electric lines or plants (sec-
- 25 tions 18-6803, 18-6804 and 18-6805, Idaho Code);
- 26 (47) Malicious injury to property (section 18-7001, Idaho Code), con-
- 27 stituting a felony;
- 28 (48) Injuring dams, canals or other structures (section 18-7019, Idaho
- 29 Code);
- 30 (49) Setting fire to underground workings of mines (sections 18-7024
- 31 and 18-7025, Idaho Code);
- 32 (50) Sabotage (section 18-7026, Idaho Code);
- 33 (51) Aircraft hijacking (section 18-7501, Idaho Code);
- 34 (52) Assault with intent to commit aircraft hijacking (section 18-7502,
- 35 Idaho Code);
- 36 (53) Threats made against airline passengers and other persons, commer-
- 37 cial airline companies, or aircraft (section 18-7504, Idaho Code);
- 38 (54) Racketeering (section 18-7804, Idaho Code);
- 39 (55) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);
- 40 (56) Stalking in the first degree (section 18-7905, Idaho Code);
- 41 (57) Prohibited terrorist activities (section 18-8103, Idaho Code);
- 42 (58) Providing material support to terrorists (section 18-8106, Idaho
- 43 Code);
- 44 (59) Prohibited employment of adult criminal sex offenders (section
- 45 18-8327, Idaho Code);
- 46 (60) Transfer of body fluid which may contain the HIV virus (section
- 47 39-608, Idaho Code);
- 48 (61) Failure to register as sex offender (sections 18-8304 and 18-8308,
- 49 Idaho Code).

1 (b) In addition to those crimes enumerated in subsection (a) of this
2 section, any person, including any juvenile tried as an adult, who is con-
3 victed for an attempt to commit any of the following crimes, regardless of
4 the form of judgment or withheld judgment, and regardless of the sentence
5 imposed or disposition rendered, shall be required to provide to the Idaho
6 state police, a DNA sample and a right thumbprint impression:

7 (1) Arson (sections 18-802 through 18-805, Idaho Code);

8 (2) Felonious administering of drugs (sections 18-913 and 18-914,
9 Idaho Code);

10 (3) Assault or battery upon certain personnel (section 18-915, Idaho
11 Code);

12 (4) Removing a firearm from a law enforcement officer (section 18-915A,
13 Idaho Code);

14 (5) Propelling bodily fluid or waste (section 18-915B, Idaho Code);

15 (6) Sexual abuse of a child under the age of sixteen years (section
16 18-1506, Idaho Code);

17 (7) Ritualized abuse of a child (section 18-1506A, Idaho Code);

18 (8) Injury to a child (section 18-1501(1), Idaho Code);

19 (9) Lewd conduct with minor child under sixteen (section 18-1508, Idaho
20 Code);

21 (10) Sexual battery of a minor child sixteen or seventeen years of age
22 (section 18-1508A, Idaho Code);

23 (11) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);

24 (12) Sale or barter of a child (section 18-1511, Idaho Code);

25 ~~(13) Possession of a controlled substance or dangerous weapon~~
26 Introduce, convey, possess, receive, obtain or remove major contraband
27 (section 18-2511(3), Idaho Code);

28 (14) False reports of explosives (section 18-3313, Idaho Code);

29 (15) Unlawful possession of a firearm (section 18-3316, Idaho Code);

30 (16) Unlawful discharge of a firearm (section 18-3317, Idaho Code);

31 (17) Unlawful possession or use of bombs or destructive devices (sec-
32 tions 18-3319 and 18-3320, Idaho Code);

33 (18) Use of weapons of mass destruction (section 18-3322, Idaho Code);

34 (19) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);

35 (20) Administering poison with intent to kill (section 18-4014, Idaho
36 Code);

37 (21) Assault with intent to murder (section 18-4015, Idaho Code);

38 (22) Indecent exposure (section 18-4116, Idaho Code), constituting a
39 felony;

40 (23) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);

41 (24) Forest sabotage (section 18-4631, Idaho Code);

42 (25) Mayhem (section 18-5001, Idaho Code);

43 (26) Cannibalism (section 18-5003, Idaho Code);

44 (27) Poisoning food, medicine or wells (section 18-5501, Idaho Code);

45 (28) Interstate trafficking in prostitution (section 18-5601, Idaho
46 Code);

47 (29) Inducing a minor into prostitution (section 18-5609, Idaho Code);

48 (30) Rape (section 18-6101, Idaho Code);

49 (31) Male rape (sections 18-6108 and 18-6109, Idaho Code);

50 (32) Sexual contact with a prisoner (section 18-6110, Idaho Code);

- 1 (33) Video voyeurism (section 18-6609, Idaho Code);
- 2 (34) Robbery (section 18-6501, Idaho Code);
- 3 (35) Incest (section 18-6602, Idaho Code);
- 4 (36) Crime against nature (section 18-6605, Idaho Code);
- 5 (37) Forcible sexual penetration (section 18-6608, Idaho Code);
- 6 (38) Removal, destruction or burning of electric lines or plants (sec-
- 7 tions 18-6803, 18-6804 and 18-6805, Idaho Code);
- 8 (39) Malicious injury to property (section 18-7001, Idaho Code), con-
- 9 stituting a felony;
- 10 (40) Injuring dams, canals or other structures (section 18-7019, Idaho
- 11 Code);
- 12 (41) Setting fire to underground workings of mines (sections 18-7024
- 13 and 18-7025, Idaho Code);
- 14 (42) Sabotage (section 18-7026, Idaho Code);
- 15 (43) Aircraft hijacking (section 18-7501, Idaho Code);
- 16 (44) Assault with intent to commit aircraft hijacking (section 18-7502,
- 17 Idaho Code);
- 18 (45) Threats made against airline passengers and other persons, commer-
- 19 cial airline companies, or aircraft (section 18-7504, Idaho Code);
- 20 (46) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);
- 21 (47) Stalking in the first degree (section 18-7905, Idaho Code);
- 22 (48) Prohibited terrorist activities (section 18-8103, Idaho Code);
- 23 (49) Providing material support to terrorists (section 18-8106, Idaho
- 24 Code);
- 25 (50) Prohibited employment of adult criminal sex offenders (section
- 26 18-8327, Idaho Code);
- 27 (51) Transfer of body fluid which may contain the HIV virus (section
- 28 39-608, Idaho Code).
- 29 (c) This chapter's requirements for submission to tests and proce-
- 30 dures for obtaining a DNA sample and thumbprint impression from the persons
- 31 described above are mandatory and apply to those persons convicted of such
- 32 crimes covered in this chapter prior to its effective date, and who, as a
- 33 result of the offense, are incarcerated in a county jail facility or a penal
- 34 facility or are under probation or parole supervision after the effective
- 35 date of this chapter.
- 36 (d) The collection of samples and impressions specified in this chapter
- 37 are required regardless of whether the person previously has supplied a DNA
- 38 sample to law enforcement agencies in any other jurisdiction.
- 39 (e) The requirements of this chapter are mandatory and apply regardless
- 40 of whether a court advises a person that samples and impressions must be pro-
- 41 vided to the databank and database as a condition of probation or parole.
- 42 (f) Unless the court determines that an order of restitution would be
- 43 inappropriate or undesirable, it shall order any person subject to the pro-
- 44 visions of this section to pay restitution to help offset costs incurred by
- 45 law enforcement agencies for the expense of DNA analysis.
- 46 (g) The court may order such person to pay restitution for DNA analysis
- 47 in an amount not to exceed five hundred dollars (\$500) per DNA sample analy-
- 48 sis, or in the aggregate not more than two thousand dollars (\$2,000), regard-
- 49 less of whether:

- 1 (1) The source of the sample is the person, the victim or other persons
 2 of interest in the case;
 3 (2) Results of the analysis are entered into evidence in the person's
 4 criminal case;
 5 (3) The DNA sample was previously analyzed for another criminal case;
 6 or
 7 (4) Restitution for that DNA sample analysis was ordered in any other
 8 criminal case.
 9 (h) Law enforcement agencies entitled to restitution under this sec-
 10 tion include the Idaho state police, county and city law enforcement agen-
 11 cies, the office of the attorney general, county prosecuting attorneys and
 12 city attorneys.
 13 (i) In the case of reimbursement for DNA analysis performed by the Idaho
 14 state police, those moneys shall be paid to the Idaho state police and de-
 15 posited in the law enforcement fund. In the case of reimbursement to the of-
 16 fice of the attorney general, those moneys shall be paid to the general fund.
 17 (j) Persons who have been sentenced to death, or life without the possi-
 18 bility of parole, or to any life or indeterminate term are not exempt from the
 19 requirements of this chapter.

20 SECTION 4. That Section 32-1410, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

- 22 32-1410. DOMESTIC VIOLENCE COURT FEES. (1) Each person who is found
 23 guilty of or pleads guilty to any of the following alcohol, substance abuse
 24 or domestic violence related offenses shall pay a thirty dollar (\$30.00) fee
 25 to be deposited in the statewide drug court, mental health court and family
 26 court services fund, as provided in section 1-1625, Idaho Code, to assist in
 27 funding the domestic violence courts:
 28 (a) Section 18-918, Idaho Code (domestic violence);
 29 (b) Section 18-920, Idaho Code (violation of no contact order);
 30 (c) Section 18-923, Idaho Code (attempted strangulation);
 31 (d) Section 18-1502, Idaho Code (beer, wine or other alcohol age viola-
 32 tions);
 33 (e) Section 18-25110(3), Idaho Code (~~possession of a controlled sub-
 34 stance or dangerous weapon~~introduce, convey, possess, receive, obtain
 35 or remove major contraband, except major contraband as defined in sec-
 36 tion 18-2510(5)(c)(ii), (iv) and (v), Idaho Code);
 37 (f) Section 18-4006 3.(b), Idaho Code (vehicular manslaughter in the
 38 commission of a violation of section 18-8004 or 18-8006, Idaho Code);
 39 (g) Section 18-5414, Idaho Code (intentionally making false state-
 40 ments);
 41 (h) Section 18-8004, Idaho Code (persons under the influence of alco-
 42 hol, drugs or any other intoxicating substances);
 43 (i) Section 18-8006, Idaho Code (aggravated driving while under the in-
 44 fluence of alcohol, drugs or any other intoxicating substances);
 45 (j) Section 23-312, Idaho Code (persons under twenty-one and intoxi-
 46 cated persons -- inhibited sales);
 47 (k) Section 23-505, Idaho Code (transportation of alcoholic bever-
 48 ages);

1 (l) Section 23-602, Idaho Code (unlawful manufacture, traffic in,
2 transportation and possession of alcohol beverage);
3 (m) Section 23-603, Idaho Code (dispensing to minor);
4 (n) Section 23-604, Idaho Code (minors -- purchase, consumption or pos-
5 session prohibited);
6 (o) Section 23-605, Idaho Code (dispensing to drunk);
7 (p) Section 23-612, Idaho Code (beer, wine or other alcoholic beverages
8 on public school grounds);
9 (q) Section 23-615, Idaho Code (restrictions on sale);
10 (r) Section 23-949, Idaho Code (persons not allowed to purchase, pos-
11 sess, serve, dispense or consume beer, wine or other alcoholic liquor);
12 (s) Section 23-1013, Idaho Code (restrictions concerning age);
13 (t) Section 23-1024, Idaho Code (false representation as being twenty-
14 one or more years of age a misdemeanor);
15 (u) Section 23-1333, Idaho Code (open or unsealed containers of wine in
16 motor vehicles on highways prohibited);
17 (v) Section 23-1334, Idaho Code (minors -- authorization to deliver);
18 (w) Criminal violation of any of the provisions of chapter 27, title 37,
19 Idaho Code;
20 (x) Section 39-6312, Idaho Code (violation of order -- penalties);
21 (y) Section 67-7034, Idaho Code (persons under the influence of alco-
22 hol, drugs or any other intoxicating substances); and
23 (z) Section 67-7114, Idaho Code (operation under the influence of alco-
24 hol, drugs or any other intoxicating substance).
25 (2) The clerk of the district court shall collect the fees set forth in
26 subsection (1) of this section. The fees shall be paid over to the county
27 treasurer who shall, within five (5) days after the end of the month, pay such
28 fees to the state treasurer for deposit into the drug court, mental health
29 court and family court services fund.