



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 19
CRIMINAL PROCEDURE
CHAPTER 60

STATE PUBLIC DEFENDER ACT [EFFECTIVE JULY 1, 2024]

19-6006. DISTRICT PUBLIC DEFENDER. [EFFECTIVE JULY 1, 2024] (1) In each judicial district described in chapter 8, title 1, Idaho Code, the state public defender shall employ a district public defender. The district public defender must be an employee of the office of the state public defender, meet and maintain the qualifications set forth in section 19-6004(2), Idaho Code, and not engage in any conduct prohibited by section 19-6004(3), Idaho Code, while employed as district public defender. The district public defender may be removed by the state public defender for failing to maintain the qualifications of the position established in this section, for engaging in conduct prohibited by this section, or for good cause shown. The duty station of each district public defender must be within the judicial district that the district public defender oversees.

(2) Under the direction and supervision of the state public defender, each district public defender shall carry out the purposes of this chapter in the judicial district, including supervising the defending attorneys hired or contracted to work in that judicial district, assuring compliance with the provisions of section 19-6005, Idaho Code, as well as other duties assigned by the state public defender.

(3) The district public defender shall be the principal liaison with the administrative district judge, the trial court administrator, the boards of county commissioners, county clerks, and county prosecutors on administrative matters concerning the provision of public defense in the judicial district. Upon invitation, but not less than annually, the district public defender shall report to each board of county commissioners within the judicial district concerning public defense in the respective county.

History:

[19-6006, added 2023, ch. 220, sec. 1, p. 664.]

How current is this law?



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 19
CRIMINAL PROCEDURE
CHAPTER 60

STATE PUBLIC DEFENDER ACT [EFFECTIVE JULY 1, 2024]

19-6007. HIRING THE DISTRICT PUBLIC DEFENDER. [EFFECTIVE JULY 1, 2024] (1) Whenever a vacancy arises in the position of district public defender, it shall be the duty of the district magistrates commission to recruit applicants, review candidates, and hire a district public defender who meets the qualifications established in this chapter. The office of the state public defender may assist the district magistrates commission in drawing the largest pool of qualified applicants.

(2) In addition to the provisions of sections 1-2203, 1-2203A, 1-2203B, 1-2204, and 1-2205, Idaho Code, when a district magistrates commission is carrying out the purposes of this section:

(a) The administrative district judge or district judge designated by the administrative district judge shall not participate in any proceedings of the district magistrates commission pursuant to the provisions of this section. The county commissioner on the district magistrates commission from the county that operated an office of public defender by January 1, 2023, shall chair the district magistrates commission. If there is more than one (1) county in the judicial district that operated an office of public defender or that was part of a joint office of public defender by January 1, 2023, the county commissioner on the district magistrates commission from such a county with the longest continuous service as county commissioner shall chair the district magistrates commission. If no county in the judicial district operated an office of public defender or was part of a joint office of public defender by January 1, 2023, the county commissioner on the district magistrates commission with the longest continuous service as county commissioner shall chair the district magistrates commission.

(b) The state public defender shall appoint two (2) attorneys who practice in the judicial district and whose practice as certified by each attorney at the time of his appointment is predominantly criminal defense, one (1) of whom must be a defending attorney employed or contracted by an indigent defense provider, to temporarily serve on the district magistrates commission; provided, however, the provision of section 1-2203B(4), Idaho Code, regarding current or former law partners shall apply to any attorney appointed by the state public defender.

(c) No person employed as a criminal prosecutor or who otherwise prosecutes or aids in the prosecution of criminal cases may participate on the district magistrates commission, nor shall any person employed in a law enforcement agency participate on the district magistrates commission. A temporary vacancy, pursuant to

section 1-2203B, Idaho Code, shall occur for any commission member prohibited from participating by this paragraph.

History:

[19-6007, added 2023, ch. 220, sec. 1, p. 664.]

How current is this law?



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 19
CRIMINAL PROCEDURE
CHAPTER 60

STATE PUBLIC DEFENDER ACT [EFFECTIVE JULY 1, 2024]

19-6008. INDIGENT PUBLIC DEFENSE – ROLE OF COUNTIES – PUBLIC DEFENSE COMMISSION RULES – TRANSITION. [EFFECTIVE JULY 1, 2024] (1) Notwithstanding any provision of law to the contrary, on and after October 1, 2024:

(a) All counties are released from any further financial or legal obligation to provide indigent public defense. On and after such date, the state assumes the full financial and legal obligation to provide indigent public defense pursuant to the sixth amendment to the United States constitution and section 13, article I of the constitution of the state of Idaho.

(b) This release of financial and legal obligation to provide indigent public defense includes the release of any requirement for counties: to employ or contract with defending attorneys, investigators, social workers, legal assistants, or other personnel necessary to provide indigent public defense; to provide office furnishings, equipment, office materials, or office supplies; to provide information technology equipment, information technology software, communication equipment, communication software, equipment, or software licenses or subscriptions; to provide general office technology or equipment; or to assume any other expense necessary for indigent defense services on and after October 1, 2024.

(c) Notwithstanding the provisions of this section, any county providing office space to a county office of public defense or a joint county office of public defense as of January 1, 2023, shall continue to make available the same or substantially similar office space for the use of the office of the state public defender until July 1, 2029, provided that:

(i) Not later than January 1, 2027, the state public defender must provide to the board of county commissioners of any county providing office space to the office of the state public defender a facility transition plan outlining the state public defender's intent to either procure other office space to house defending attorneys or enter into a contract with the board of county commissioners to lease office space from the board of county commissioners necessary to house defending attorneys;

(ii) Nothing in this section shall be construed to obligate a board of county commissioners to provide office space to the office of the state public defender on and after July 1, 2029;

(iii) Nothing in this section shall prohibit the state public defender from notifying a board of county commissioners that provides office space to the office of the state public defender that the state public defender no longer needs part or all of the space obligated by this section prior to July 1, 2029. Such

notice shall relieve the county board of commissioners of the obligation to provide office space to the office of the state public defender; and

(iv) Notwithstanding the provisions of this section, each county must continue providing interviewing facilities in the county jail necessary for carrying out the state public defender's responsibilities in law.

(d) The state public defender shall reimburse a board of county commissioners for any expenses incurred in providing such office space, including but not limited to office furnishings, equipment, office materials, or office supplies; information technology equipment, information technology software, communication equipment, communication software, equipment, or software licenses or subscriptions; or general office technology or equipment or related expenses.

(e) All administrative rules promulgated by the state public defense commission shall be repealed in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) To effectuate an orderly transition to the office of the state public defender without unnecessary disruption of indigent defense services, counties and defending attorneys shall not prohibit access by the state public defender, or his designee, to information and data, including case files, that are necessary to establish a statewide case management system or for other administrative purposes in establishing the office of the state public defender. The state public defender and any designee shall have the ethical duty and legal obligation to maintain confidentiality and privacy of any information learned or obtained during the course of transition to the office of the state public defender while counties continue to provide indigent defense services. The state public defender at his discretion may require defending attorneys to use a case management system procured by the state public defender at no expense to counties or defending attorneys.

(3) Upon termination of the public defense commission on July 1, 2024, all property and full-time positions at the commission shall transfer to the office of the state public defender.

(4) All administrative rules promulgated by the public defense commission shall remain in effect while counties continue to provide indigent defense until October 1, 2024, when that obligation ends pursuant to this section.

(5) To the greatest extent possible, the state public defender and district public defenders shall provide the option to defending attorneys employed by a county office of public defender or joint office of public defender on September 30, 2024, who meet the requirements and standards for defending attorneys, as well as support staff, the opportunity to continue employment with the office of the state public defender working in the county that previously employed them.

(6) District magistrates commissions shall coordinate with the state public defender and begin the process of recruiting applicants, reviewing candidates, and selecting each district public defender as soon as practicable after July 1, 2024.

(7) In order to advise the state public defender and provide input from counties and defending attorneys during the transition, the state public defender shall appoint a volunteer transition advisory board to

advise on matters related to the transition of public defense through October 1, 2024. Board members shall be compensated as provided in section 59-509(a), Idaho Code. The board shall be composed of:

(a) Two (2) representatives from the Idaho association of counties;
and

(b) Seven (7) attorneys, with one (1) attorney from each judicial district, whose practice, as certified by them at the time of their appointment, is predominately criminal defense, among whom not less than three (3) must be defending attorneys who are employed by a county or joint office of public defense, and not less than two (2) must be defending attorneys who contract with counties to provide public defense services.

History:

[19-6008, added 2023, ch. 220, sec. 1, p. 665.]

How current is this law?