

TITLE 1
COURTS AND COURT OFFICIALS

CHAPTER 16
MISCELLANEOUS PROVISIONS

1-1603. POWERS OF COURT. Every court has power:

1. To preserve and enforce order in its immediate presence.
2. To enforce order in the proceedings before it or before a person or persons empowered to conduct a judicial investigation under its authority.
3. To provide for the orderly conduct of proceedings before it or its officers.
4. To compel obedience to its judgments, orders and process, and to the orders of a judge out of court in an action or proceeding pending therein.
5. To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto.
6. To compel the attendance of persons to testify in an action or proceeding pending therein, in the cases and manner provided in this code.
7. To administer oaths in an action or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers and duties.
8. To amend and control its process and orders, so as to make them conformable to law and justice.

[(1-1603) C.C.P. 1881, sec. 42; R.S., R.C., & C.L., sec. 3862; C.S., sec. 6477; I.C.A., sec. 1-1603.]

1-1606. COURTS -- DAYS WHEN HELD. The courts of justice may be held and judicial business be transacted on any day except as provided in the next section.

[(1-1606) C.C.P. 1881, sec. 45; R.S., R.C., & C.L., sec. 3865; C.S., sec. 6480; I.C.A., sec. 1-1606.]

1-1607. NONJUDICIAL DAYS. No court can be opened nor can any judicial business be transacted on any day enumerated in section [73-108](#), Idaho Code, or on every day appointed by the President of the United States, or by the governor of this state, for a public fast, thanksgiving, or holiday, or on a day on which the general election is held, except for the following purposes:

1. To give, upon their request, instructions to a jury when deliberating on their verdict.
2. To receive a verdict or discharge a jury.
3. For the exercise of the powers of a magistrate in a criminal action or in a proceeding of a criminal nature: provided, that in civil causes orders of arrest may be made and executed; writs of attachment, executions, injunctions and writs of prohibition may be issued and served; proceedings to recover possession of personal property may be had; and suits for the purpose of obtaining any such writs and proceedings may be instituted on any day.

[(1-1607) C.C.P. 1881, sec. 46; R.S., R.C., & C.L., sec. 3866; C.S. 6481; I.C.A., sec. 1-1607; am. 1961, ch. 270, sec. 1, p. 480; am. 1971, ch. 84, sec. 1, p. 186.]

1-1613. FACILITIES AND EQUIPMENT PROVIDED BY COUNTY. Each county in the state shall provide suitable and adequate facilities for the district court, including the facilities and equipment necessary to make the space provided functional for its intended use, and shall provide for the staff, personnel, supplies, and other expenses of the district court.

[1-1613, added 1976, ch. 133, sec. 2, p. 501.]

1-1613A. COUNTY EMPLOYEES PERFORMING FUNCTIONS OF THE DISTRICT COURT UNDER COURT CONTROL -- LIABILITY. (1) For the purposes of the Idaho tort claims act, as set forth in sections [6-901](#) et seq., Idaho Code, any county official or employee, including any elected or appointed county official, while acting in the course and scope of performing clerical, judicial and other administrative functions and duties of the district court, shall be considered an employee of the state of Idaho.

(2) For the purposes of this section only, the term "district court" includes all district courts and magistrates divisions thereof, administrative judges of each district, and all district and magistrate judges in the judicial districts of the state of Idaho.

[1-1613A, added 2005, ch. 221, sec. 1, p. 698.]

1-1614. COURTS HAVING SEALS. Each of the following courts has a seal:

1. The Supreme Court.
2. The district courts.
3. The magistrate's division of the district courts.

[(1-1614) C.C.P. 1881, sec. 53; R.S., R.C. & C.L., sec. 3873; C.S., sec. 6488; I.C.A., sec. 1-1614; am. 1969, ch. 105, sec. 1, p. 360.]

1-1615. CLERK MUST KEEP SEAL. The clerk of the court must keep the seal thereof.

[(1-1615) C.C.P. 1881, sec. 54; R.S., R.C., & C.L., sec. 3874; C.S., sec. 6489; I.C.A., sec. 1-1615.]

1-1616. INSTRUMENTS REQUIRING SEAL OF COURT. The seal of the court need not be affixed to any proceeding therein, or document except:

1. To a writ.
2. To the certificate of the probate of a will, or of the appointment of an executor, administrator or guardian.
3. To the authentication of a copy of a record or other proceeding of a court, or of an officer thereof, or of a copy of a document on file in the office of the clerk.

[(1-1616) C.C.P. 1881, sec. 55; R.S., R.C., & C.L., sec. 3875; C.S., sec. 6490; I.C.A., sec. 1-1616.]

1-1622. INCIDENTAL MEANS TO EXERCISE JURISDICTION. When jurisdiction is, by this code, or by any other statute, conferred on a court or judicial officer all the means necessary to carry it into effect are also given; and in the exercise of the jurisdiction if the course of proceedings be not specially pointed out by this code, or the statute, any suitable process or mode

of proceeding may be adopted which may appear most conformable to the spirit of this code.

[(1-1622) C.C.P. 1881, sec. 72; R.S., R.C., & C.L., sec. 3925; C.S., sec. 6511; I.C.A., sec. 1-1622.]

1-1623. COURT TECHNOLOGY FUND -- ANNUAL REPORT. (1) There is hereby created in the office of the state treasurer the court technology fund. Moneys deposited into the fund pursuant to sections [1-2303](#), [1-2311](#), [10-1305](#), [31-3201](#), [31-3201A](#), [31-3201H](#) and [31-3221](#), Idaho Code, upon appropriation by the legislature, shall be used by the supreme court for the purpose of maintaining, replacing and enhancing the court technology program, and other technologies that assist in the efficient management of the courts or that improve access to the courts and court records including, but not limited to, a system for payments by credit card or debit card as provided in section [31-3221](#), Idaho Code, development of electronic filing of documents in court cases, video conferencing and electronic access to court records. The court technology fund shall be separate and distinct from the state general fund, and expenditures from the court technology fund shall be solely dedicated to the purposes set forth in this section. Moneys deposited into the fund may be allowed to accumulate from year to year for designated maintenance, replacement, extension or enhancement of the court technology program and for other technologies that assist in the efficient management of the courts. Interest earned on the investment of idle moneys in the court technology fund shall be returned to the court technology fund.

(2) On or before the first day of each legislative session, the supreme court shall provide an annual report for the previous fiscal year to the governor, the chairman of the judiciary and rules committee of the senate, the chairman of the judiciary, rules and administration committee of the house of representatives and the chairmen of the joint finance-appropriations committee that summarizes the status of the court technology fund, the maintenance, replacement, extension or enhancement of court technology, and the manner and extent to which court technology has advanced the timely resolution of cases, improved access to the courts, produced savings and made more effective use of judicial resources.

[1-1623, added 1997, ch. 28, sec. 1, p. 48; am. 1998, ch. 76, sec. 2, p. 278; am. 2005, ch. 240, sec. 1, p. 743; am. 2006, ch. 73, sec. 1, p. 226; am. 2010, ch. 205, sec. 1, p. 446; am. 2014, ch. 190, sec. 1, p. 506.]

1-1624. SET-OFF PROCEDURE FOR DELINQUENT DEBTS OWED TO THE COURTS. (1) The purpose of this legislation is to enable the Idaho supreme court, as the supervisor of the unified and integrated judicial system of this state, to apply for a set-off of state tax refunds and credits owing to a taxpayer in payment of a delinquent debt owed by the taxpayer to the courts of this state. It is the intent of the legislature that this set-off remedy be in addition to and not in substitution of any other remedy or action provided for by law for the collection of such delinquent debts.

(2) The state tax commission shall withhold and set-off any income tax or tax credit refund of any taxpayer, upon notification from the Idaho supreme court, to collect any debt owed to the courts by the taxpayer which is delinquent. A remittance by the state tax commission to the court pursuant to this section shall be deemed to be, to the extent of the remittance, a refund to the taxpayer and any other person who has a claim to such refund,

and the state tax commission shall not be liable to any person because of a refund that has been remitted under this section.

(3) A "debt owed to the courts" means any assessment of fines, court costs, surcharges, penalties, fees, restitution, moneys expended in providing counsel and other defense services to indigent defendants, or other charges that a court judgment or disposition has ordered to be paid to the court in civil, criminal, or juvenile cases, or in an agreement by, a defendant in a criminal proceeding and owed to the court, including any interest or penalty on the same as provided for in such judgment, such disposition, such agreement or by law.

(4) As used in subsections (3) and (5) of this section, "agreement" means an agreement that:

- (a) Has been filed with the court and placed in the court's case file;
- (b) Has been approved by the court;
- (c) Provides that all payments due pursuant to the agreement shall be made to the clerk of the court; and
- (d) If executed on and after July 1, 2017, contains provisions serving to notify the taxpayer of payment due dates; the set-off of tax refunds and credits remedy provided for in this section; and the right to object to a set-off of tax refunds and credits as provided for in subsection (7) (d) of this section.

(5) A debt owed to the courts is delinquent when it is not paid according to the terms of such judgment or agreement, but at no time shall a delinquency be deemed to exist if the aggregate amount of money paid in satisfaction of an agreement equals or exceeds the total amount of money that the taxpayer was obligated to pay up to that time pursuant to the agreement.

(6) Any claims for current or past-due child support presented under section [56-203D](#), Idaho Code, or claims for set-off of income tax refunds against any tax liability or overpayment of benefits owed to the state department of labor pursuant to section [63-3077A](#), Idaho Code, shall take priority over any claim for delinquent debt owed to the courts under this section.

(7) The set-off or withholding of a refund due a taxpayer shall be remitted only after the following conditions have been met:

- (a) A debt owed to the courts is delinquent. This section shall not be used to satisfy any amount ordered by the court until the order or judgment is final and the time for appealing the judgment or order has elapsed without any further right on the part of the person owing the amount to judicial review.
- (b) All outstanding tax liabilities collectible by the state tax commission are satisfied.
- (c) The supreme court shall forward to the state tax commission the full name and social security number of the taxpayer. The tax commission shall notify the supreme court of the amount of refund due the taxpayer and the taxpayer's address on the income tax return.
- (d) Upon remittance of any set-off or part thereof, the court shall cause a written notice to be sent to the taxpayer whose refund is subject to the set-off. Notice of the set-off shall be sent by United States mail to the taxpayer at the address listed on the income tax return. Within twenty-one (21) days after such notice has been mailed (not counting Saturday, Sunday or a state holiday as the twenty-first day), the taxpayer may file a written objection to the set-off in accordance with procedures established by the supreme court, which may

impose reasonable requirements concerning the information necessary to process the objection. No issues or claims previously decided in a court order or judgment, or admitted or agreed to by the taxpayer, shall be considered in connection with an objection. In the case of a refund that is set-off in error under this section, the court shall reimburse the taxpayer.

(8) The supreme court shall create a suspense account to pay amounts that are found to be set-off in error under the provisions of subsection (7) (d) of this section or to refund any balance that remains after the debt to the courts is satisfied. If no written objection to the set-off is made within twenty-one (21) days, such failure shall be deemed a waiver of the right to contest the set-off and the amount of the set-off shall be removed from the suspense account and shall be credited to the taxpayer's debt to the courts. The court may waive the twenty-one (21) day time limit in appropriate circumstances.

(9) When set-off is attempted on a joint return under the provisions of this section, the taxpayer not specified to be the obligor in the judgment or agreement creating the debt owed to the court may file a written objection within the time limits specified in subsection (7) (d) of this section and the set-off will be limited to one-half (1/2) of the joint refund.

(10) If the refund is insufficient to satisfy the entire debt owed to the courts, the remainder of the debt may be collected as provided by law or submitted for set-off against subsequent refunds.

(11) The proceeds from the set-off shall be credited to the debt owing to the courts and shall be distributed as provided by law.

(12) The state tax commission and the supreme court independently may adopt rules governing its administration of this section and are authorized to enter into a written agreement to implement and facilitate the provisions of this section, including the method of making remittances of the amount which has been set-off pursuant to this section.

[1-1624, added 2003, ch. 288, sec. 1, p. 779; am. 2017, ch. 277, sec. 1, p. 726; am. 2019, ch. 220, sec. 1, p. 667.]

1-1625. DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND. There is hereby created in the office of the state treasurer a special fund to be known as the drug court, mental health court and family court services fund. Moneys deposited into the fund pursuant to sections [19-4705](#) and [23-217](#), Idaho Code, subject to appropriation by the legislature, shall be used by the supreme court for the operations of drug courts and mental health courts, including drug testing, substance abuse treatment and supervision, mental health assessment, treatment and supervision, and related court programs, as provided in [chapter 56, title 19](#), Idaho Code, for the purpose of assisting children and families in the courts, as provided in [chapter 14, title 32](#), Idaho Code, and for other court services as provided by statute.

[(1-1625) 1-1624, added 2003, ch. 291, sec. 2, p. 792; am. and re-desig. 2004, ch. 318, sec. 1, p. 893; am. 2005, ch. 360, sec. 1, p. 1144; am. 2010, ch. 205, sec. 2, p. 446; am. 2016, ch. 34, sec. 2, p. 84.]