TITLE 19
CRIMINAL PROCEDURE

CHAPTER 25
JUDGMENT

19-2501. TIME FOR JUDGMENT. After a plea or verdict of guilty, or after a verdict against the defendant on the plea of a former conviction or acquittal, if the judgment be not arrested or a new trial granted, the court must appoint a time for pronouncing judgment, which, in cases of felony, must be at least two days after the verdict, if the court intend to remain in session so long; but if not, then at as remote a time as can reasonably be allowed.

[(19-2501) Cr. Prac. 1864, secs. 434, 435, p. 266; R.S., R.C., & C.L., sec. 7980; C.S., sec. 9023; I.C.A., sec. 19-2401.]

19-2502. DETERMINATION OF DEGREE OF CRIME. Upon a plea of guilty of a crime distinguished or divided into degrees, the court must, before passing sentence, determine the degree.

[(19-2502) R.S., R.C., & C.L., sec. 7981; C.S., sec. 9024; I.C.A., sec. 19-2402.]

19-2503. PRESENCE OF DEFENDANT. For the purpose of judgment, if the conviction is for a felony, the defendant must be personally present; if for a misdemeanor, judgment may be pronounced in his absence.

[(19-2503) Cr. Prac. 1864, sec. 436, p. 266; R.S., R.C., & C.L., sec. 7982; C.S., sec. 9025; I.C.A., sec. 19-2403.]

19-2504. DEFENDANT TO BE BROUGHT BEFORE COURT. When the defendant is in custody the court may direct the officer in whose custody he is to bring him before it for judgment, and the officer must do so.

[(19-2504) Cr. Prac. 1864, sec. 437, p. 266; R.S., R.C., & C.L., sec. 7983; C.S., sec. 9026; I.C.A., sec. 19-2404.]

19-2505. BENCH WARRANT TO ENFORCE ATTENDANCE. If the defendant has been discharged on bail, or has deposited money instead thereof, and does not appear for judgment when his personal appearance is necessary, the court, in addition to the forfeiture of the undertaking of bail, or of the money deposited, may direct the clerk to issue a bench warrant for his arrest.

[(19-2505) Cr. Prac. 1864, sec. 438, p. 266; R.S., R.C., & C.L., sec. 7984; C.S., sec. 9027; I.C.A., sec. 19-2405.]

19-2506. CLERK TO ISSUE WARRANT. The clerk, on the application of the prosecuting attorney, may, at any time after the order, whether the court be sitting or not, issue a bench warrant into one or more counties.

[(19-2506) Cr. Prac. 1864, sec. 439, p. 266; R.S., R.C., & C.L., sec. 7985; C.S., sec. 9028; I.C.A., sec. 19-2406.]

19-2507. FORM OF WARRANT. The bench warrant must be substantially in the following form:

County of .....

The state of Idaho, to any sheriff, constable, marshal or policeman in this state:

A.B., having been on the .... day of ...., ... duly convicted in the district court of the .... judicial district of the state of Idaho, in and for the county of ...., of the crime of .... (designating it generally), you are therefore commanded forthwith to arrest the above named A.B. and bring him before that court for judgment; or if the court has adjourned for the term, that you deliver him into the custody of the sheriff of the county of .....

Given under my hand, with the seal of said court affixed, this .... day of ...., ...

By order of the court.

(Seal) E.F., Clerk.

[(19-2507) Cr. Prac. 1864, sec. 440, p. 266; R.S., R.C., & C.L., sec. 7986; C.S., sec. 9029; I.C.A., sec. 19-2407; am. 2007, ch. 90, sec. 11, p. 251.]

19-2508. SERVICE OF WARRANT. The bench warrant may be served in any county in the same manner as a warrant of arrest, and when served in another county it need not be endorsed by a magistrate of that county.

[(19-2508) Cr. Prac. 1864, sec. 441, p. 266; R.S., R.C., & C.L., sec. 7987; C.S., sec. 9030; I.C.A., sec. 19-2408.]

19-2509. ARREST OF DEFENDANT. Whether the bench warrant is served in the county in which it was issued or in another county, the officer must arrest the defendant and bring him before the court or commit him to the officer mentioned in the warrant, according to the command thereof.

[(19-2509) Cr. Prac. 1864, sec. 442, p. 267; R.S., R.C., & C.L., sec. 7988; C.S., sec. 9031; I.C.A., sec. 19-2409.]

19-2510. ARRAIGNMENT FOR SENTENCE. When the defendant appears for judgment he must be informed by the court, or by the clerk, under its direction, of the nature of the indictment and of his plea, and the verdict if any thereon, and must be asked whether he has any legal cause to show why judgment should not be pronounced against him.

[(19-2510) Cr. Prac. 1864, sec. 443, p. 267; R.S., R.C., & C.L., sec. 7989; C.S., sec. 9032; I.C.A., sec. 19-2410.]

19-2511. GROUNDS FOR WITHHOLDING JUDGMENT. He may show, for cause against the judgment that he has good cause to offer, either in arrest of judgment or for a new trial, in which case the court may, in its discretion, order the judgment to be deferred, and proceed to decide upon the motion in arrest of judgment or for a new trial.

[(19-2511) Cr. Prac. 1864, sec. 444, p. 267; R.S., R.C., & C.L., sec. 7990; C.S., sec. 9033; I.C.A., sec. 19-2411; am. 1970, ch. 31, sec. 14, p. 61.]

19-2512. PRONOUNCEMENT OF JUDGMENT. If no sufficient cause is alleged or appears to the court why judgment should not be pronounced, it must thereupon be rendered.

[(19-2512) Cr. Prac. 1864, sec. 445, p. 267; R.S., & R.C., sec. 7991; reen. 1915, ch. 104, sec. 1, p. 244; reen. C.L., sec. 7991; C.S., sec. 9034; I.C.A., sec. 19-2412.]

19-2513. UNIFIED SENTENCE. (1) Whenever any person is convicted of having committed a felony, the court shall, unless it shall commute the sentence, suspend or withhold judgment and sentence or grant probation, as provided in chapter 26, title 19, Idaho Code, or unless it shall impose the death sentence as provided by law, sentence such offender to the custody of the state board of correction. The court shall specify a minimum period of confinement and may specify a subsequent indeterminate period of custody. The court shall set forth in its judgment and sentence the minimum period of confinement and the subsequent indeterminate period, if any, provided, that the aggregate sentence shall not exceed the maximum provided by law. During a minimum term of confinement, the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct except for meritorious service as provided in section 20-101D, Idaho Code, or for medical parole as provided in section 20-1006, Idaho Code. The offender may be considered for parole or discharge at any time during the indeterminate period of the sentence and as provided in section 20-1006, Idaho Code.

(2) If the offense carries a mandatory minimum penalty as provided by statute, the court shall specify a minimum period of confinement consistent with such statute. If the offense is subject to an enhanced penalty as provided by statute, or if consecutive sentences are imposed for multiple offenses, the court shall, if required by statute, direct that the enhancement or each consecutive sentence contain a minimum period of confinement; in such event, all minimum terms of confinement shall be served before any indeterminate periods commence to run.

(3) Enactment of this amended section shall not affect the prosecution, adjudication or punishment of any felony committed before the effective date of enactment.

[19-2513, added 1909, p. 82, H.B. 214, sec. 1; am. 1911, ch. 200, sec. 1, p. 664; compiled and reen. C.L., sec. 7991a; C.S., sec. 9035; I.C.A., sec. 19-2413; am. 1947, ch. 46, sec. 1, p. 50; am. 1957, ch. 47, sec. 1, p. 82; am. 1970, ch. 143, sec. 1, p. 425; am. 1986, ch. 232, sec. 3, p. 639; am. 1993, ch. 106, sec. 2, p. 272; am. 2014, ch. 150, sec. 19, p. 430; am. 2017, ch. 182, sec. 6, p. 421; am. 2021, ch. 196, sec. 21, p. 536; am. 2024, ch. 164, sec. 1, p. 623.]

19-2514. PERSISTENT VIOLATOR -- SENTENCE ON THIRD CONVICTION FOR FELONY. Any person convicted for the third time of the commission of a felony, whether the previous convictions were had within the state of Idaho or were had outside the state of Idaho, shall be considered a persistent violator of law, and on such third conviction shall be sentenced to a term in the custody of the state board of correction which term shall be for not less than five (5) years and said term may extend to life.

[(19-2514) C.S., sec. 9035A, as added by 1923, ch. 109, sec. 1, p. 139; I.C.A., sec. 19-2414; am. 1970, ch. 143, sec. 2, p. 425.]

19-2515. SENTENCE IN CAPITAL CASES -- SPECIAL SENTENCING PROCEEDING -- STATUTORY AGGRAVATING CIRCUMSTANCES -- SPECIAL VERDICT OR WRITTEN FINDINGS. (1) Except as provided in section 19-2515A, Idaho Code, a person convicted of murder in the first degree shall be liable for the imposition of the penalty of death if such person killed, intended a killing, or acted with reckless indifference to human life, irrespective of whether such person directly committed the acts that caused death.

(2) Where a person is sentenced to serve a term in the penitentiary, after conviction of a crime which falls within the provisions of section 20-1005, Idaho Code, except in cases where the court retains jurisdiction, the comments and arguments of the counsel for the state and the defendant relative to the sentencing and the comments of the judge relative to the sentencing shall be recorded. If the comments are recorded electronically, they need not be transcribed. Otherwise, they shall be transcribed by the court reporter.

(3) Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless:

(a) A notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code; and

(b) The jury, or the court if a jury is waived, finds beyond a reasonable doubt at least one (1) statutory aggravating circumstance. Where a statutory aggravating circumstance is found, the defendant shall be sentenced to death unless mitigating circumstances which may be presented are found to be sufficiently compelling that the death penalty would be unjust. The jury shall not direct imposition of a sentence of death unless it unanimously finds at least one (1) statutory aggravating circumstance and unanimously determines that the penalty of death should be imposed.

(4) Notwithstanding any court rule to the contrary, when a defendant is adjudicated guilty of murder in the first degree, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, no presentence investigation shall be conducted; provided however, that if a special sentencing proceeding is not held or if a special sentencing proceeding is held but no statutory aggravating circumstance has been proven beyond a reasonable doubt, the court may order that a presentence investigation be conducted.

(5)(a) If a person is adjudicated guilty of murder in the first degree, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, and a notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code, a special sentencing proceeding shall be held promptly for the purpose of hearing all relevant evidence and arguments of counsel in aggravation and mitigation of the offense. Information concerning the victim and the impact that the death of the victim has had on the victim's family is relevant and admissible. Such information shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community by the victim's death. Characterizations and opinions about the crime, the defendant and the appropriate sentence shall not be permitted as part of any victim impact information. The special sentencing proceeding shall be conducted before a jury unless a jury is waived by the defendant with the consent of the prosecuting attorney.

(b) If the defendant's guilt was determined by a jury verdict, the same jury shall hear the special sentencing proceeding; provided however, that if it is impracticable to reconvene the same jury to hear the special sentencing proceeding due to an insufficient number of jurors, the trial court may dismiss that jury and convene a new jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code.

(c) If the defendant's guilt was determined by a plea of guilty or by a decision of the trial court sitting without a jury, or if a retrial of the special sentencing proceeding is necessary for any reason including, but not limited to, a mistrial in a previous special sentencing proceeding or as a consequence of a remand from an appellate court, the trial court shall impanel a jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code, unless such jury is waived.

(d) If a special sentencing proceeding is conducted before a newly impaneled jury pursuant to the provisions of subsection (5)(b) or (5)(c) of this section, the state and the defense may present evidence to inform the jury of the nature and circumstances of the murder for which the defendant was convicted. The newly impaneled jury shall be instructed that the defendant has previously been found guilty of first-degree murder and that the jury's purpose is limited to making findings relevant for sentencing.

(6) At the special sentencing proceeding, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Disclosure of evidence to be relied on in the sentencing proceeding shall be made in accordance with Idaho criminal rule 16. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing.

(7) The jury shall be informed as follows:

(a) If the jury finds that a statutory aggravating circumstance exists and no mitigating circumstances exist which would make the imposition of the death penalty unjust, the defendant will be sentenced to death by the court.

(b) If the jury finds the existence of a statutory aggravating circumstance but finds that the existence of mitigating circumstances makes the imposition of the death penalty unjust or the jury cannot unanimously agree on whether the existence of mitigating circumstances makes the imposition of the death penalty unjust, the defendant will be sentenced to a term of life imprisonment without the possibility of parole; and

(c) If the jury does not find the existence of a statutory aggravating circumstance or if the jury cannot unanimously agree on the existence of a statutory aggravating circumstance, the defendant will be sentenced by the court to a term of life imprisonment with a fixed term of not less than ten (10) years.

(8) Upon the conclusion of the evidence and arguments in mitigation and aggravation:

(a) With regard to each statutory aggravating circumstance alleged by the state, the jury shall return a special verdict stating:

(i) Whether the statutory aggravating circumstance has been proven beyond a reasonable doubt; and

(ii) If the statutory aggravating circumstance has been proven beyond a reasonable doubt, whether all mitigating circumstances, when weighed against the aggravating circumstance, are sufficiently compelling that the death penalty would be unjust.

(b) If a jury has been waived, the court shall:

(i) Make written findings setting forth any statutory aggravating circumstance found beyond a reasonable doubt;

(ii) Set forth in writing any mitigating circumstances considered; and

(iii) Upon weighing all mitigating circumstances against each statutory aggravating circumstance separately, determine whether mitigating circumstances are found to be sufficiently compelling that the death penalty would be unjust and detail in writing its reasons for so finding.

(9) The following are statutory aggravating circumstances, at least one (1) of which must be found to exist beyond a reasonable doubt before a sentence of death can be imposed:

(a) The defendant was previously convicted of another murder.

(b) At the time the murder was committed the defendant also committed another murder.

(c) The defendant knowingly created a great risk of death to many persons.

(d) The murder was committed for remuneration or the promise of remuneration or the defendant employed another to commit the murder for remuneration or the promise of remuneration.

(e) The murder was especially heinous, atrocious or cruel, manifesting exceptional depravity.

(f) By the murder, or circumstances surrounding its commission, the defendant exhibited utter disregard for human life.

(g) The murder was committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, kidnapping or mayhem and the defendant killed, intended a killing, or acted with reckless indifference to human life.

(h) The murder was committed in the perpetration of, or attempt to perpetrate, lewd and lascivious conduct with a minor, sexual abuse of a child under sixteen (16) years of age, ritualized abuse of a child, sexual exploitation of a child, sexual battery of a minor child sixteen (16) or seventeen (17) years of age, or forcible sexual penetration by use of a foreign object, and the defendant killed, intended a killing, or acted with reckless indifference to human life.

(i) The defendant, by his conduct, whether such conduct was before, during or after the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society.

(j) The murder was committed against a former or present peace officer, executive officer, officer of the court, judicial officer or prosecuting attorney because of the exercise of official duty or because of the victim's former or present official status.

(k) The murder was committed against a witness or potential witness in a criminal or civil legal proceeding because of such proceeding.

[19-2515, R.S., R.C. & C.L., sec. 7992; C.S. sec. 9036; I.C.A. sec. 19-2415; am. 1977, ch. 154, sec. 4, p. 390; am. 1984, ch. 230, sec. 1, p. 549; am. 1995, ch. 140, sec. 1, p. 594; am. 1998, ch. 96, sec. 3, p. 344;

am. 2000, ch. 287, sec. 1, p. 969; am. 2003, ch. 19, sec. 4, p. 72; am. 2003, ch. 136, sec. 3, p. 395; am. 2004, ch. 317, sec. 1, p. 889; am. 2005, ch. 152, sec. 1, p. 468; am. 2006, ch. 129, sec. 1, p. 375; am. 2021, ch. 196, sec. 22, p. 537; am. 2022, ch. 124, sec. 20, p. 453.]

19-2515A. IMPOSITION OF DEATH PENALTY UPON MENTALLY RETARDED PERSON PROHIBITED. (1) As used in this section:

(a) "Mentally retarded" means significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two (2) of the following skill areas: communication, self-care, home living, social or interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health and safety. The onset of significant subaverage general intelligence functioning and significant limitations in adaptive functioning must occur before age eighteen (18) years.

(b) "Significantly subaverage general intellectual functioning" means an intelligence quotient of seventy (70) or below.

(2) In any case in which the state has provided notice of an intent to seek the death penalty pursuant to section 18-4004A, Idaho Code, and where the defendant intends to claim that he is mentally retarded and call expert witnesses concerning such issue, the defendant shall give notice to the court and the state of such intention at least ninety (90) days in advance of trial, or such other period as justice may require, and shall apply for an order directing that a mental retardation hearing be conducted. Upon receipt of such application, the court shall promptly conduct a hearing without a jury to determine whether the defendant is mentally retarded; provided however, that no court shall, over the objection of any party, receive the evidence of any expert witness on the issue of mental retardation unless such evidence is fully subject to the adversarial process in at least the following particulars:

(a) If a defendant fails to provide notice as required in this subsection, an expert witness shall not be permitted to testify until such time as the state has a complete opportunity to consider the substance of such testimony and prepare for rebuttal through such opposing experts as the state may choose.

(b) A party who expects to call an expert witness to testify on the issue of mental retardation shall, on a schedule to be set by the court, furnish to the opposing party a written synopsis of the findings of such expert or a copy of a written report. The court may authorize the taking of depositions to inquire further into the substance of such synopsis or report.

(c) Raising the issue of mental retardation shall constitute a waiver of any privilege that might otherwise be interposed to bar the production of evidence on the subject and, upon request, the court shall order that the state's experts shall have access to the defendant in such cases for the purpose of having its own experts conduct an examination in preparation for any legal proceeding at which the defendant's mental retardation may be in issue.

(d) The court is authorized to appoint at least one (1) expert at public expense upon a showing by an indigent defendant that there is a need to inquire into questions of the defendant's mental retardation. The defendant shall pay the costs of examination if he is financially able. The determination of ability to pay shall be made in accordance with

chapter 8, title 19, Idaho Code. The report of the examination shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

(e) If an examination cannot be conducted by reason of the unwillingness of the defendant to cooperate with either a court-appointed examiner or with any state expert, the examiner or expert shall so advise the court in writing and include, if possible, an opinion as to whether such unwillingness of the defendant was the result of mental retardation. The court may consider the defendant's lack of cooperation for its effect on the credibility of the defendant's mental retardation claim.

(3) If the court finds by a preponderance of the evidence that the defendant is mentally retarded, the death penalty shall not be imposed. The jury shall not be informed of the mental retardation hearing or the court's findings concerning the defendant's claim of mental retardation.

(4) In the event of a conviction of first-degree murder of a person who has been found to be mentally retarded pursuant to subsections (2) and (3) of this section, a special sentencing proceeding shall be held promptly to determine whether the state has proven beyond a reasonable doubt the existence of any of the statutory aggravating circumstances set forth in subsections 19-2515(9)(a) through (k), Idaho Code.

(a) The special sentencing proceeding shall be conducted before a jury unless a jury is waived by the defendant with the consent of the prosecuting attorney.

(i) If the defendant's guilt was determined by a jury verdict, the same jury shall hear the special sentencing proceeding; provided however, that if it is impracticable to reconvene the same jury to hear the special sentencing proceeding due to an insufficient number of jurors, the trial court may dismiss that jury and convene a new jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code.

(ii) If the defendant's guilt was determined by a plea of guilty or by a decision of the trial court sitting without a jury, or if a retrial of the special sentencing proceeding is necessary for any reason including, but not limited to, a mistrial in a previous special sentencing proceeding or as a consequence of a remand from an appellate court, the trial court shall impanel a jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code, unless such jury is waived.

(iii) If a special sentencing proceeding is conducted before a newly impaneled jury, the state and the defense may present evidence to inform the jury of the nature and circumstances of the murder for which the defendant was convicted. The newly impaneled jury shall be instructed that the defendant has previously been found guilty of first-degree murder and that the jury's purpose is limited to making findings relevant for sentencing.

(b) At the special sentencing proceeding, the state and the defendant shall be entitled to present all evidence relevant to the determination of whether or not a statutory aggravating circumstance has been proven beyond a reasonable doubt. Disclosure of evidence to be relied on in the sentencing proceeding shall be made in accordance with Idaho criminal

rule 16. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing.

(c) If a unanimous jury, or the court if a jury is waived, finds the existence of a statutory aggravating circumstance beyond a reasonable doubt, the court shall impose a fixed life sentence. If a unanimous jury, or the court if a jury is waived, does not find the existence of a statutory aggravating circumstance beyond a reasonable doubt, the court shall impose a life sentence with a minimum period of confinement of not less than ten (10) years during which period of confinement the defendant shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct, except for meritorious service.

(5) Nothing in this section is intended to alter the application of any rule of evidence or limit or extend the right of any party to assert any claim or defense otherwise available to that party.

(6) Any remedy available by post-conviction procedure or habeas corpus shall be pursued according to the procedures and time limits set forth in section 19-2719, Idaho Code.

[19-2515A, added 2003, ch. 136, sec. 4, p. 398; am. 2006, ch. 129, sec. 2, p. 378.]

19-2516. COST OF PRESENTENCE INVESTIGATION. If a court orders a presentence investigation to be conducted, the court shall order the defendant to pay an amount to be determined by the department of correction, not to exceed one hundred dollars ($100), of the cost of conducting the presentence investigation and preparing the presentence investigation report. Such court orders shall be included in the judgment. Any such amount to be paid by the defendant shall be determined by the department of correction and shall be based on the defendant's ability to pay. In determining a defendant's ability to pay, the department of correction may consider such factors as the defendant's income, property owned, outstanding obligations and the number and ages of dependents. Such payments shall be made to the department of correction and will be placed in the probation and parole receipts account created pursuant to section 20-225A, Idaho Code, and utilized as reimbursement for the cost of conducting the presentence investigation and preparing the presentence investigation report. Moneys in the probation and parole receipts account may be expended only after appropriation by the legislature.

[19-2516, added 2011, ch. 74, sec. 1, p. 156.]

19-2517. PRESENTENCE INVESTIGATION REPORT TO INCLUDE RECIDIVISM RATES. (1) If the court orders a presentence investigation to be conducted, the investigation report shall include current recidivism rates for:

(a) Offenders placed on probation after an expired period of retained jurisdiction under section 19-2601 4., Idaho Code;

(b) Offenders placed on probation under section 19-2601 2. or 3., Idaho Code; and

(c) Offenders sentenced directly to a term of imprisonment.

(2) The reported recidivism rates shall be differentiated based on offender risk levels of low, moderate and high.

[19-2517, added 2014, ch. 150, sec. 1, p. 414.]

19-2518. LIEN OF JUDGMENT FOR FINE. A judgment that the defendant pay a fine, pay costs, or pay fine and costs, constitutes a lien in like manner as a judgment for money in a civil action.

[(19-2518) Cr. Prac. 1864, sec. 448, p. 267; R.S., sec. 7995; 1899, p. 379; sec. 2; reen. R.C. & C.L., sec. 7995; C.S., sec. 9039; I.C.A., sec. 19-2418.]

19-2519. ENTRY OF JUDGMENT -- RECORD. (a) When judgment upon a conviction is rendered, the clerk must enter the same upon the minutes, stating briefly the offense for which the conviction was had and must without unnecessary delay annex together and file the following papers, which constitute a record of the action:

1. A copy of the minutes of a challenge interposed by the defendant to the panel of a grand jury, or to an individual grand juror, and the proceedings and the decisions thereon.
2. The indictment and copy of the minutes of the plea or demurrer.
3. A copy of the minutes of a challenge interposed to the panel of the trial jury or to an individual juror, and the proceedings and decision thereon.
4. A copy of the minutes of the trial.
5. A copy of the minutes of the judgment.
6. Any bill or bills of exceptions.
7. The written charges asked of the court, and refused with the court's endorsement thereon.
8. A copy of all requested instruction showing those given and those refused with the court's endorsement thereon, together with a copy of all instructions given on the court's own motion.

(b) As soon as possible upon entry of the judgment of conviction the clerk shall deliver to the sheriff of the county a certified copy of the judgment along with a copy of the presentence investigation report, if any, for delivery to the director of correction pursuant to section 20-237, Idaho Code.

[(19-2519) Cr. Prac. 1864, sec. 449, p. 267; R.S. & R.C., sec. 7996; am. 1915, ch. 149, p. 323; reen. C.L., sec. 7996; C.S., sec. 9040; I.C.A., sec. 19-2419; am. 1991, ch. 116, sec. 2, p. 245.]

19-2520. EXTENDED SENTENCE FOR USE OF FIREARM OR DEADLY WEAPON. Any person convicted of a violation of sections 18-905 (aggravated assault defined), 18-907 (aggravated battery defined), 18-909 (assault with intent to commit a serious felony defined), 18-911 (battery with intent to commit a serious felony defined), 18-1401 (burglary defined), 18-1508(3), 18-1508(4), 18-1508(5), 18-1508(6) (lewd conduct with minor or child under sixteen), 18-2501 (rescuing prisoners), 18-2505 (escape by one charged with or convicted of a felony), 18-2506 (escape by one charged with or convicted of a misdemeanor), 18-4003 (degrees of murder), 18-4006 (manslaughter), 18-4015 (assault with intent to murder), 18-4501 (kidnapping defined), 18-5001 (mayhem defined), 18-6101 (rape defined), 18-6501 (robbery defined), 37-2732(a) (delivery, manufacture or possession of a controlled substance with intent to deliver) or 37-2732B (trafficking), Idaho Code, who displayed, used, threatened, or attempted to use a firearm or other deadly weapon while committing or attempting to commit the crime, shall be sentenced to an extended term of imprisonment. The extended term of

imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by fifteen (15) years.

For the purposes of this section, "firearm" means any deadly weapon capable of ejecting or propelling one (1) or more projectiles by the action of any explosive or combustible propellant, and includes unloaded firearms and firearms which are inoperable but which can readily be rendered operable.

The additional terms provided in this section shall not be imposed unless the fact of displaying, using, threatening, or attempting to use a firearm or other deadly weapon while committing the crime is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at the trial of the substantive crime.

This section shall apply even in those cases where the use of a firearm is an element of the offense.

[19-2520, added 1977, ch. 10, sec. 1, p. 20; am. 1980, ch. 296, sec. 1, p. 767; am. 1983, ch. 183, sec. 1, p. 496; am. 1986, ch. 319, sec. 2, p. 785; am. 1988, ch. 328, sec. 1, p. 990; am. 1993, ch. 264, sec. 1, p. 897; am. 2006, ch. 249, sec. 1, p. 758.]

19-2520B. INFLICTION OF GREAT BODILY INJURY -- ATTEMPTED FELONY OR CONSPIRACY -- EXTENSION OF PRISON TERM. (1) Any person who inflicts great bodily injury, and the injury was either intended or the act causing the injury was done with a reckless disregard for the safety of another person, on any person, other than an accomplice, in the commission or attempted commission of a felony or conspiracy to commit such a felony shall be sentenced to an extended term sentence. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by twenty (20) years. A term of imprisonment shall be extended as provided in this section unless infliction of great bodily injury is an element of the offense of which he is found guilty. (2) As used in this section, "great bodily injury" means a significant or substantial physical injury.

(3) The extended term of imprisonment required by this section shall apply to any aider or abettor; a person who acts in concert with, or a person who conspires with, the perpetrator of the crime.

(4) The additional terms provided in this section shall not be imposed unless the fact of great bodily injury is separately charged in the accusatory pleading and admitted by the accused or found to be true by the trier of fact after a verdict or finding of guilty on the substantive crime.

[19-2520B, added 1981, ch. 150, sec. 1, p. 260; am. 1983, ch. 183, sec. 3, p. 498; am. 1986, ch. 319, sec. 3, p. 785.]

19-2520C. EXTENSION OF PRISON TERMS FOR REPEATED SEX OFFENSES, EXTORTION AND KIDNAPPING. (1) Any person who is found guilty of violation of the provisions of sections 18-2401 (extortion), 18-4501 (kidnapping), 18-6101 (rape), or 18-1508 (lewd and lascivious conduct), Idaho Code, or any attempt or conspiracy to commit such crime(s); and committed such crime(s) by force, violence, duress, menace or threat of great bodily injury and who has been previously found guilty of any such crime, shall be sentenced to an extended term sentence. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by fifteen (15) years; provided,

however, that no extension shall be imposed under this section for any such crime occurring prior to a period of fifteen (15) years during which the person remained free of prison custody, parole and being found guilty of a crime which is a felony; provided further that no extension shall be imposed under this subsection when the provisions of section 19-2520B, Idaho Code, would be applicable.

(2) Any person found guilty of an offense specified in subsection (1) of this section who has served two (2) or more prior prison terms for any crime specified in subsection (1) hereof, shall be sentenced to an extended term sentence. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by twenty (20) years; provided, that no extended term of imprisonment shall be imposed under this subsection for any prison term served prior to a period of fifteen (15) years during which the person remained free of prison custody, parole and being found guilty of a crime which is a felony.

(3) The extended terms of imprisonment required by this section shall apply to any aider or abettor; a person who acts in concert with, or a person who conspires with, the perpetrator of the crime.

(4) Any extended term of imprisonment required by this section shall not be imposed unless the fact of the prior commission of a crime is separately charged in the accusatory pleading and admitted by the accused or found to be true by the trier of fact after a verdict or finding of guilty on the substantive crime.

[19-2520C, added 1981, ch. 150, sec. 2, p. 261; am. 1983, ch. 183, sec. 4, p. 498; am. 1984, ch. 63, sec. 3, p. 113; am. 1986, ch. 319, sec. 4, p. 786; am. 2022, ch. 124, sec. 21, p. 455.]

19-2520D. PRIOR FOREIGN CONVICTION. Every person who has been found guilty in any other state, country or jurisdiction of an offense for which, if committed within this state, such person could have been punished under the laws of this state by imprisonment in the state prison, is punishable for any subsequent crime committed within this state in the manner prescribed by law and to the same extent as if such prior conviction had taken place in a court of this state.

[19-2520D, added 1981, ch. 150, sec. 3, p. 262.]

19-2520E. MULTIPLE ENHANCED PENALTIES PROHIBITED. Notwithstanding the enhanced penalty provisions in sections 19-2520, 19-2520A, 19-2520B and 19-2520C, Idaho Code, any person convicted of two (2) or more substantive crimes provided for in the above code sections, which crimes arose out of the same indivisible course of conduct, may only be subject to one (1) enhanced penalty.

[19-2520E, added 1983, ch. 183, sec. 5, p. 499.]

19-2520F. CONSECUTIVE SENTENCES FOR FELONIES COMMITTED IN CORRECTIONAL FACILITIES. Every person who has been found guilty of a commission of a felony on the grounds of a correctional facility located in this state shall have the sentence for such offense begin after all previous sentences have ended.

[19-2520F, added 1990, ch. 238, sec. 1, p. 676.]

19-2520G. MANDATORY MINIMUM SENTENCING. (1) Pursuant to section 13, article V of the Idaho constitution, the legislature intends to provide mandatory minimum sentences for repeat offenders who have previously been found guilty of or pleaded guilty to child sexual abuse. The legislature hereby finds and declares that the sexual exploitation of children constitutes a wrongful invasion of a child and results in social, developmental and emotional injury to the child. It is the policy of the legislature to protect children from the physical and psychological damage caused by their being used in sexual conduct. In order to protect children from becoming victims of this type of conduct by perpetrators, it is necessary to provide the mandatory minimum sentencing format contained in subsection (2) of this section. By enacting mandatory minimum sentences, the legislature does not seek to limit the court's power to impose in any case a longer sentence as provided by law.

(2) Any person who is found guilty of or pleads guilty to any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy to commit such a crime, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than fifteen (15) years, if it is found by the trier of fact that previous to the commission of such crime the defendant has been found guilty of or has pleaded guilty to a violation of any crime or an offense committed in this state or another state which, if committed in this state, would require the person to register as a sexual offender as set forth in section 18-8304, Idaho Code.

(3) The mandatory minimum term provided in this section shall be imposed where the aggravating factor is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at a trial of the substantive crime. A court shall not have the power to suspend, withhold, retain jurisdiction, or commute a mandatory minimum sentence imposed pursuant to this section. Any sentence imposed under the provisions of this section shall run consecutive to any other sentence imposed by the court.

[19-2520G, added 1993, ch. 152, sec. 1, p. 387; am. 2006, ch. 154, sec. 1, p. 469; am. 2011, ch. 311, sec. 25, p. 903.]

19-2521. SENTENCING CRITERIA FOR PLACING DEFENDANT ON PROBATION OR IMPOSING IMPRISONMENT. (1) The policy of the state of Idaho regarding sentencing of persons convicted of a crime is as follows, unless otherwise provided by law:

(a) The sentencing court should first consider placement in the community. The goals of sentencing include the primary consideration of the protection of society, followed by the possibility of risk reduction through rehabilitation, deterrence of the individual and the public generally, and punishment or retribution for wrongdoing and the impact on the victim; and

(b) Each discretionary sentence should be specifically tailored to the individual defendant and take into account the totality of all relevant facts and circumstances.

(2) The following factors, while not controlling the discretion of the court, shall be accorded weight in favor of avoiding a sentence of imprisonment:

(a) The defendant's criminal conduct neither caused nor threatened harm;
(b) The defendant did not contemplate that his criminal conduct would cause or threaten harm;
(c) The defendant's criminogenic needs indicate that the defendant will benefit from supervision and treatment in the community;
(d) There were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
(e) The victim of the defendant's criminal conduct induced or facilitated the commission of the crime;
(f) The defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that was sustained; provided, however, nothing in this section shall prevent the appropriate use of imprisonment and restitution in combination;
(g) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime;
(h) The defendant's criminal conduct was the result of circumstances unlikely to recur;
(i) The character and attitudes of the defendant indicate that the commission of another crime is unlikely; and
(j) The defendant demonstrates amenability to treatment.

(3) The following factors, while not controlling the discretion of the court, shall be accorded weight in favor of a sentence of imprisonment:
(a) There is undue risk that during the period of a suspended sentence or probation the defendant will commit another crime harmful to another person;
(b) A lesser sentence will depreciate the seriousness of the defendant's crime;
(c) Imprisonment will provide appropriate punishment and deterrent to the defendant;
(d) Imprisonment will provide an appropriate deterrent for other persons in the community; and
(e) The defendant is a multiple offender or professional criminal.

(4) As used in this section, "criminogenic needs" means those dynamic factors associated with the likelihood of reoffending but that may be changed through effective intervention.

[(19-2521) 19-2520 added 1977, ch. 46, sec. 1, p. 85; am. and redesig. 1993, ch. 86, sec. 1, p. 215; am. and redesig. 1993, ch. 101, sec. 1, p. 255; am. 2014, ch. 150, sec. 2, p. 414; am. 2020, ch. 210, sec. 1, p. 616.]

19-2522. EXAMINATION OF DEFENDANT FOR EVIDENCE OF MENTAL CONDITION -- APPOINTMENT OF PSYCHIATRISTS OR LICENSED PSYCHOLOGISTS -- HOSPITALIZATION -- REPORTS. (1) If there is reason to believe the mental condition of the defendant will be a significant factor at sentencing and for good cause shown, the court shall appoint at least one (1) psychiatrist or licensed psychologist to examine and report upon the mental condition of the defendant. The costs of examination shall be paid by the defendant if he is financially able. The determination of ability to pay shall be made in accordance with chapter 8, title 19, Idaho Code. The order appointing or requesting the designation of a psychiatrist or licensed psychologist shall specify the issues to be resolved for which the examiner is appointed or designated.

(2) In making such examination, any method may be employed which is accepted by the examiner's profession for the examination of those alleged to be suffering from a mental illness or defect.

(3) The report of the examination shall include the following:

(a) A description of the nature of the examination;

(b) A diagnosis, evaluation or prognosis of the mental condition of the defendant;

(c) An analysis of the degree of the defendant's illness or defect and level of functional impairment;

(d) A consideration of whether treatment is available for the defendant's mental condition;

(e) An analysis of the relative risks and benefits of treatment or nontreatment;

(f) A consideration of the risk of danger which the defendant may create for the public if at large.

(4) The report of the examination shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

(5) When the defendant wishes to be examined by an expert of his own choice, such examiner shall be permitted to have reasonable access to the defendant for the purpose of examination.

(6) If a mental health examination of the defendant has previously been conducted, whether pursuant to section 19-2524, Idaho Code, or for any other purpose, and a report of such examination has been submitted to the court, and if the court determines that such examination and report provide the necessary information required in subsection (3) of this section, and the examination is sufficiently recent to reflect the defendant's present mental condition, then the court may consider such prior examination and report as the examination and report required by this section and need not order an additional examination of the defendant's mental condition. The provisions of this subsection shall not apply to examinations and reports performed or prepared pursuant to section 18-211 or 18-212, Idaho Code, for the purpose of determining the defendant's fitness to proceed, unless the defendant knowingly, voluntarily and intelligently consents to having such examination and report used at sentencing.

(7) Nothing in this section is intended to limit the consideration of other evidence relevant to the imposition of sentence.

[19-2522, added 1982, ch. 368, sec. 9, p. 925; am. 2009, ch. 124, sec. 1, p. 390; am. 2012, ch. 225, sec. 1, p. 611.]

19-2523. CONSIDERATION OF MENTAL ILLNESS IN SENTENCING. (1) Evidence of mental condition shall be received, if offered, at the time of sentencing of any person convicted of a crime. In determining the sentence to be imposed in addition to other criteria provided by law, if the defendant's mental condition is a significant factor, the court shall consider such factors as:

(a) The extent to which the defendant is mentally ill;

(b) The degree of illness or defect and level of functional impairment;

(c) The prognosis for improvement or rehabilitation;

(d) The availability of treatment and level of care required;

(e) Any risk of danger which the defendant may create for the public, if at large, or the absence of such risk;

(f) The capacity of the defendant to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law at the time of the offense charged.

(2) The court shall authorize treatment during the period of confinement or probation specified in the sentence if, after the sentencing hearing, it concludes by clear and convincing evidence that:

(a) The defendant suffers from a severe and reliably diagnosable mental illness or defect resulting in the defendant's inability to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law;

(b) Without treatment, the immediate prognosis is for major distress resulting in serious mental or physical deterioration of the defendant;

(c) Treatment is available for such illness or defect;

(d) The relative risks and benefits of treatment or nontreatment are such that a reasonable person would consent to treatment. (of the offense charged.)

(3) In addition to the authorization of treatment, the court shall pronounce sentence as provided by law.

[19-2523, added 1982, ch. 368, sec. 10, p. 925.]

19-2524. CONSIDERATION OF COMMUNITY-BASED TREATMENT TO MEET BEHAVIORAL HEALTH NEEDS IN SENTENCING AND POST-SENTENCING PROCEEDINGS. (1) After a defendant has pled guilty to or been found guilty of a felony, and at any time thereafter while the court exercises jurisdiction over the defendant, behavioral health needs determinations shall be conducted when and as provided by this section.

(a) As part of the presentence process, a screening to determine whether a defendant is in need of a substance use disorder assessment and/or a mental health examination shall be made in every felony case unless the court waives the requirement for a screening. The screening shall be performed within seven (7) days after the plea of guilty or finding of guilt.

(b) At any time after sentencing while the court exercises jurisdiction over the defendant, the court may order such a screening to be performed by individuals authorized or approved by the department of correction if the court determines that one is indicated. The screening shall be performed within seven (7) days after the order of the court requiring such screening.

(2) Substance use disorder provisions.

(a) Should a screening indicate the need for further assessment of a substance use disorder, the necessary assessment shall be timely performed so as to avoid any unnecessary delay in the criminal proceeding and not later than thirty-five (35) days after a plea of guilty or finding of guilt or other order of the court requiring such screening. The assessment may be performed by qualified employees of the department of correction or by private providers approved by the department of health and welfare. If the screening or assessment is not timely completed, the court may order that the screening be performed by another qualified provider.

(b) Following completion of the assessment, the results of the assessment, including a determination of whether the defendant meets diagnostic criteria for a substance use disorder and the recommended level of

care, shall be submitted to the court as part of the presentence investigation report or other department of correction report to the court.
(c) Following the entry of a plea of guilty or a finding of guilt, the court may order, as a condition of the defendant's continued release on bail or on the defendant's own recognizance, that, if the assessment reflects that the defendant meets diagnostic criteria for a substance use disorder, the defendant shall promptly, and prior to sentencing, begin treatment at the recommended level of care.
(d) If the court concludes at sentencing, or at any time after sentencing while the court exercises jurisdiction over the defendant, that the defendant meets diagnostic criteria for a substance use disorder, and if the court places the defendant on probation, the court may order the defendant, as a condition of probation, to undergo treatment at the recommended level of care, subject to modification of the level of care by the court. If substance use disorder treatment is ordered, all treatment shall be performed by a qualified private provider approved by the department of health and welfare. The court may order that, if the level of care placement or the treatment plan is modified in any material term, the department of correction shall notify the court stating the reason for the modifications and informing the court as to the clinical alternatives available to the defendant. The level of care for substance use treatment shall be based upon each probationer's risk assessment with priority given to probationers with high or moderate risk levels.
(e) In no event shall the persons or facility doing the substance use assessment be the person or facility that provides the substance use treatment unless this requirement is waived by the court or where the assessment and treatment are provided by or through a federally recognized Indian tribe or federal military installation where diagnosis and treatment are appropriate and available.
(f) Defendants who have completed department of correction institutional programs may receive aftercare services from qualified employees of the department of correction.
(g) The expenses of all screenings and assessments for substance use disorder provided or ordered under this section shall be borne by the department of correction. The expenses for treatment provided or ordered under this section shall be borne by the department of correction unless the defendant is placed in a treatment program that is funded by an alternate source. The department of correction shall be entitled to any payment received by the defendant or to which he may be entitled from any public or private source available to the department of correction for the service provided to the defendant. The department of correction may promulgate rules for a schedule of fees to be charged to the defendant for the substance use disorder assessments and treatments provided to the defendant based upon the actual costs of such services and the ability of the defendant to pay. The department of correction shall use the state-approved financial eligibility form and reimbursement schedule as set forth in IDAPA 16.07.01.
(3) Mental health provisions.
(a) Should the mental health screening indicate that a serious mental illness may be present, then the department of correction shall refer the defendant to the department of health and welfare for further examination. The examination shall be timely performed so as to avoid any

unnecessary delay in the criminal proceeding and not later than thirty-five (35) days after a plea of guilty or finding of guilt or other order of the court requiring such screening.

(b) The examination may be performed by qualified department of health and welfare employees or by private providers under contract with the department of health and welfare, provided that such examination shall at a minimum include an in-depth evaluation of the following:

(i) Mental health concerns;

(ii) Psychosocial risk factors;

(iii) Medical, psychiatric, developmental and other relevant history;

(iv) Functional impairments;

(v) Mental status examination;

(vi) Multiaxial diagnoses; and

(vii) Any other examinations necessary to provide the court with the information set forth in paragraph (c) of this subsection.

(c) Upon completion of the mental health examination, the court shall be provided, as part of the presentence report or other department of health and welfare report to the court, a copy of the mental health assessment along with a summary report. The summary report shall include the following:

(i) Description and nature of the examination;

(ii) Multiaxial diagnoses;

(iii) Description of the defendant's diagnosis and if the defendant suffers from a serious mental illness (SMI) as that term is now defined, or is hereafter amended, in IDAPA 16.07.33.011, to also include post-traumatic stress disorder;

(iv) An analysis of the degree of impairment due to the defendant's diagnosis;

(v) Consideration of the risk of danger the defendant may create for the public; and

(vi) If the defendant suffers from a serious mental illness, the report shall also include a plan of treatment that addresses the following:

1. An analysis of the relative risks and benefits of treatment versus nontreatment;

2. Types of treatment appropriate for the defendant; and

3. Beneficial services to be provided.

(d) If the court, after receiving a mental health examination and plan of treatment, determines that additional information is needed regarding the mental condition of the defendant or the risk of danger such condition may create for the public, the court may order additional evaluations and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist.

(e) If the court concludes that the defendant suffers from a serious mental illness as defined in paragraph (c)(iii) of this subsection and that treatment is available for such serious mental illness, then the court may order, as a condition of the defendant's release on bail or on the defendant's own recognizance or as a condition of probation, that the defendant undergo treatment consistent with the plan of treatment, subject to modification of the plan of treatment by the court. If the plan of treatment is modified in any material term, the department of health and welfare shall notify the court in a timely manner stating the

reasons for the modification and informing the court as to the clinical alternatives available to the defendant.

(f) If treatment is ordered, all treatment shall be performed by a provider approved by the department of health and welfare.

(g) Mental health examinations and/or treatment provided or ordered under this section shall be secured by the department of health and welfare. The department of health and welfare shall exhaust efforts to assist the defendant in gaining access to health care benefits that will cover the defendant's mental health treatment needs. To the extent that health care benefits are not available to the defendant for the treatment, the expenses for treatment shall be borne by the department of health and welfare. The expenses of all mental health examinations provided or ordered under this section shall be borne by the department of health and welfare. The department of health and welfare shall be entitled to any payment received by the defendant or to which he may be entitled from any public or private source available to the department of health and welfare for the service provided to the defendant. The department of health and welfare is authorized to promulgate rules for a schedule of fees to be charged to the defendant for the mental health examinations and treatments provided to the defendant based upon the actual costs of such services and the ability of the defendant to pay. The department of health and welfare shall use the state-approved financial eligibility form and reimbursement schedule as set forth in IDAPA 16.07.01. The defendant shall pay the fee for the mental health examinations and treatments consistent with the rules of the department of health and welfare.

(4) Unless otherwise ordered by the court, if the defendant is in treatment for a substance use disorder or mental illness, any substance use disorder assessment required under subsection (2) of this section or mental health examination required under subsection (3) of this section need not be performed while the defendant is in such treatment. In such circumstances, the court may make such order as it finds appropriate to facilitate the completion of the sentencing process or other proceeding before the court, including providing for the assessment and treatment records to be included in the presentence investigation report or other report to the court.

(5) Any substance use disorder assessment including any recommended level of care or mental health examination including any plan of treatment shall be delivered to the court, the defendant and the prosecuting attorney prior to any sentencing hearing or probation revocation hearing.

(6) A substance use disorder assessment prepared pursuant to the provisions of this section shall satisfy the requirement of an alcohol evaluation prior to sentencing set forth in section 18-8005(11), Idaho Code, and shall also satisfy the requirement of a substance abuse evaluation prior to sentencing set forth in section 37-2738, Idaho Code.

(7) If the defendant is sentenced to the custody of the board of correction, then any substance use disorder assessment, mental health examination or plan of treatment shall be sent to the department of correction along with the presentence report.

[19-2524, added 2007, ch. 310, sec. 1, p. 875; am. 2012, ch. 225, sec. 2, p. 612; am. 2012, ch. 225, sec. 3, p. 614; am. 2014, ch. 150, sec. 3, p. 415; am. 2020, ch. 82, sec. 12, p. 185.]