

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 1
PRELIMINARY PROVISIONS

18-101. DEFINITION OF TERMS. The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "wilfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

2. The words "neglect," "negligence," "negligent," and "negligently," import a want of such attention to the nature of probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

3. The word "corruptly," imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

4. The words "malice," and "maliciously," import a wish to vex, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

5. The word "knowingly," imports only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.

6. The word "bribe," signifies anything of value or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence, unlawfully, the person to whom it is given, in his action, vote or opinion, in any public or official capacity.

7. Where the word "person" is used in this code to designate the party whose property may be the subject of any offense, it includes this state, any other state, any territory, government, or country, which may lawfully own property within this state, and all public and private corporations or joint associations, as well as individuals.

[18-101, added 1972, ch. 336, sec. 1, p. 846.]

18-101A. DEFINITIONS. As used in titles 18, 19 and 20, Idaho Code, and elsewhere in the Idaho Code, unless otherwise specifically provided or unless the context clearly indicates or requires otherwise, the following terms shall be defined as follows:

(1) "Correctional facility" means a facility for the confinement of prisoners or juvenile offenders. The term shall be construed to include references to terms including, but not limited to, "prison," "state prison," "state penitentiary," "governmental detention facility," "penal institution (facility)," "correctional institution," "juvenile correctional center," "Idaho security medical program," "detention institution (facility)," "juvenile detention center (facility)," "county jail," "jail," "private prison (facility)," "private correctional facility," or those facilities that detain juvenile offenders pursuant to a contract with the Idaho department of juvenile corrections.

(2) "In-state prisoner" means any person who has been charged with or convicted of a crime in the state of Idaho or who is being detained pursuant to a court order, and:

(a) Who is being housed in any state, local or private correctional facility; or

(b) Who is being transported in any manner within or through the state of Idaho.

(3) "Local correctional facility" means a facility for the confinement of prisoners operated by or under the control of a county or city. The term shall include references to "county jail," or "jail." The term shall also include a private correctional facility housing prisoners under the custody of the state board of correction, the county sheriff or other local law enforcement agency.

(4) "Out-of-state prisoner" or "out-of-state inmate" means any person who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and:

(a) Who is being housed in any state, local or private correctional facility in the state of Idaho; or

(b) Who is being transported in any manner within or through the state of Idaho.

(5) "Parolee" means a person who has been convicted of a felony and who has been placed on parole by the Idaho commission of pardons and parole or similar body of another state, the United States, or a foreign jurisdiction, who is not incarcerated in any state, local or private correctional facility, and who is being supervised by employees of the Idaho department of correction.

(6) "Prisoner" means a person who has been convicted of a crime in the state of Idaho or who is being detained pursuant to a court order, or who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and:

(a) Who is being housed in any state, local or private correctional facility; or

(b) Who is being transported in any manner within or through the state of Idaho.

The term shall be construed to include references to terms including, but not limited to, "inmate," "convict," "detainee," and other similar terms and shall include "out-of-state prisoner" and "out-of-state inmate."

(7) "Private correctional facility" or "private prison (facility)" means a correctional facility constructed or operated in the state of Idaho by a private prison contractor.

(8) "Private prison contractor" means any person, organization, partnership, joint venture, corporation or other business entity engaged in the site selection, design, design/building, acquisition, construction, construction/management, financing, maintenance, leasing, leasing/purchasing, management or operation of private correctional facilities or any combination of these services.

(9) "Probationer" means a person who has been placed on felony probation by an Idaho court, or a court of another state, the United States, or a foreign jurisdiction, who is not incarcerated in any state, local or private correctional facility, and who is being supervised by employees of the Idaho department of correction.

(10) "Repeat offender" means, for the purposes of sections [18-8002](#), [18-8002A](#), [18-8004C](#) and [18-8005](#), Idaho Code, a person who has been convicted of driving while intoxicated or driving under the influence of alcohol and/or drugs more than once in any five (5) year period for the purposes of sections [18-8002A](#) and [18-8004C](#), Idaho Code, or any ten (10) year period for the purposes of sections [18-8002](#) and [18-8005](#), Idaho Code.

(11) "State correctional facility" means a facility for the confinement of prisoners, owned or operated by or under the control of the state of Idaho. The term shall include references to "state prison," "state penitentiary" or "state penal institution (facility)." The term shall also include a private correctional facility housing prisoners under the custody of the board of correction.

(12) "Supervising officer" means an employee of the Idaho department of correction who is charged with or whose duties include supervision of felony parolees or felony probationers.

(13) "Juvenile offender" means a person younger than eighteen (18) years of age or who was younger than eighteen (18) years of age at the time of any act, omission, or status for which the person is being detained in a correctional facility pursuant to court order.

[18-101A, added 2000, ch. 272, sec. 1, p. 787; am. 2005, ch. 177, sec. 1, p. 547; am. 2008, ch. 60, sec. 1, p. 151; am. 2014, ch. 63, sec. 1, p. 151; am. 2018, ch. 254, sec. 8, p. 603.]

18-101B. CRIMINAL LAWS APPLICABLE TO OUT-OF-STATE PRISONERS AND PERSONNEL OF PRIVATE CORRECTIONAL FACILITIES. (1) An out-of-state prisoner and personnel of a private prison contractor employed at a private correctional facility in the state of Idaho shall be subject to all criminal laws of the state of Idaho.

(2) Any offense which would be a criminal act if committed by an in-state prisoner housed in a state, local or private correctional facility, or in custody during transport within or through the state of Idaho, including escape from such facility or during transport, and any penalty for such offense, shall apply in all respects to an out-of-state prisoner.

(3) Any offense which would be a criminal act if committed by an officer, employee or agent of a state or local correctional facility, and any penalty for such offense, shall apply in all respects to the officers, employees and agents of a private correctional facility located in the state of Idaho.

[18-101B, added 2000, ch. 272, sec. 2, p. 788.]

18-102. SUFFICIENCY OF INTENT TO DEFRAUD. Whenever, by any of the provisions of this code, an intent to defraud is required in order to constitute any offense, it is sufficient if an intent appears to defraud any person, association, or body politic or corporate, whatever.

[18-102, added 1972, ch. 336, sec. 1, p. 847.]

18-103. CIVIL REMEDIES PRESERVED. The omission to specify or affirm in this code any liability to damages, penalty, forfeiture, or other remedy imposed by law and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same.

[18-103, added 1972, ch. 336, sec. 1, p. 847.]

18-104. PROCEEDINGS TO REMOVE OFFICERS PRESERVED. The omission to specify or affirm in this code any ground of forfeiture of a public office, or other trust or special authority conferred by law, or any power conferred by law to remove, depose, or suspend any public officer, or other person holding any trust, appointment, or other special authority conferred by law, does not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such removal, deposition, or suspension.

[18-104, added 1972, ch. 336, sec. 1, p. 847.]

18-105. COURTS MAY PUNISH FOR CONTEMPT. This code does not affect any power conferred by law upon any public body, tribunal or officer, to impose or inflict punishment for a contempt.

[18-105, added 1972, ch. 336, sec. 1, p. 847.]

18-106. COURT TO IMPOSE PUNISHMENT. The several sections of this code which declare certain crimes to be punishable as therein mentioned, devolve a duty upon the court authorized to pass sentence, to determine and impose the punishment prescribed.

[18-106, added 1972, ch. 336, sec. 1, p. 847.]

18-107. DETERMINATION OF PUNISHMENT BY COURT. Whenever, in this code, the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case, must be determined by the court authorized to pass sentence within such limits as may be prescribed by this code.

[18-107, added 1972, ch. 336, sec. 1, p. 847.]

18-109. DEFINITION OF CRIME. A crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, upon conviction, either of the following punishments:

1. Death.
2. Imprisonment.
3. Fine.
4. Removal from office; or
5. Disqualification to hold and enjoy any office of honor, trust or profit in this state.

[18-109, added 1972, ch. 336, sec. 1, p. 848.]

18-110. GRADES OF CRIME. Crimes are divided into:

1. Felonies; and
2. Misdemeanors.

[18-110, added 1972, ch. 336, sec. 1, p. 848.]

18-111. FELONY, MISDEMEANOR AND INFRACTION DEFINED. A felony is a crime which is punishable with death or by imprisonment in the state prison. An infraction is a civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding three hundred dollars (\$300) and for

which no period of incarceration may be imposed. Every other crime is a misdemeanor. When a crime punishable by imprisonment in the state prison is also punishable by fine or imprisonment in a county jail, in the discretion of the court, it shall be deemed a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the state prison.

[18-111, added 1972, ch. 336, sec. 1, p. 848; am. 1982, ch. 353, sec. 6, p. 878; am. 2014, ch. 236, sec. 1, p. 596.]

18-111A. FELONY DEFINED FURTHER. Wherever the words felony, felony in the first degree, felony in the second degree, or felony in the third degree are used in the entire Idaho Code as well as the 1972 Session Law amendments thereto, the same shall be defined as a felony and shall be punishable, unless otherwise provided in a specific act, according to the General Felony Statute in the state of Idaho contained in section [18-112](#), Idaho Code.

[I.C., sec. 18-111A, as added by 1972, ch. 381, sec. 2, p. 1102.]

18-111B. MISDEMEANOR DEFINED FURTHER. Wherever the words misdemeanor, petty misdemeanor or violation are used in the entire Idaho Code as well as the 1972 Session Law amendments thereto, these terms or any of them shall be construed to mean misdemeanor and shall be punished, unless otherwise provided for in a specific act, as provided under the General Misdemeanor Statute contained in section [18-113](#), Idaho Code.

[I.C., sec. 18-111B, as added by 1972, ch. 381, sec. 3, p. 1102.]

18-112. PUNISHMENT FOR FELONY. Except in cases where a different punishment is prescribed by this code, every offense declared to be a felony is punishable by imprisonment in the state prison not exceeding five (5) years, or by fine not exceeding fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

[18-112, added 1972, ch. 336, sec. 1, p. 848; am. 1994, ch. 134, sec. 1, p. 307.]

18-112A. FINE AUTHORIZED. In addition to any other punishment prescribed for felonies in specific statutes of the Idaho Code, the court may also impose a fine of up to fifty thousand dollars (\$50,000). This section shall not apply if the specific felony statute provides for the imposition of a fine.

[18-112A, added 1986, ch. 312, sec. 1, p. 763; am. 1994, ch. 134, sec. 2, p. 307.]

18-113. PUNISHMENT FOR MISDEMEANOR. (1) Except in cases where a different punishment is prescribed in this code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

(2) In addition to any other punishment prescribed for misdemeanors in specific statutes of the Idaho Code, the court may also impose a fine of up to one thousand dollars (\$1,000). This paragraph shall not apply if the specific misdemeanor statute provides for the imposition of a fine.

[18-113, added 1972, ch. 336, sec. 1, p. 848; am. 1994, ch. 141, sec. 1, p. 315; am. 2005, ch. 359, sec. 1, p. 1133.]

18-113A. PUNISHMENT FOR INFRACTION. Every offense declared to be an infraction is punishable only by a penalty not exceeding three hundred dollars (\$300) as provided in this section and no imprisonment. The penalty for an infraction shall be:

- (1) The amount set by statute;
- (2) Subject to subsection (1) of this section, the amount set as a fixed penalty for that infraction as of January 1, 2014, by the Idaho supreme court infraction rule 9, excepting subsection (38) of infraction rule 9 for "other infractions";
- (3) The amount set by city or county ordinance for which the city or county has authority to impose a penalty and which is not otherwise set under subsection (1) or (2) of this section; or
- (4) Fifteen dollars and fifty cents (\$15.50) for an infraction without a specific penalty set under subsection (1), (2) or (3) of this section.

[18-113A, added 1982, ch. 353, sec. 7, p. 878; am. 2014, ch. 236, sec. 2, p. 596; am. 2015, ch. 198, sec. 1, p. 608.]

18-113B. INCARCERATION OF JUVENILES FOR MISDEMEANOR OR FELONY OFFENSES. (1) Juveniles committing offenses which lie outside the scope of the juvenile corrections act, [chapter 5, title 20](#), Idaho Code, and not charged under section [20-508](#) or [20-509](#), Idaho Code, may, in the discretion of a court or arresting officer, be placed in a juvenile detention facility or juvenile shelter care facility rather than in a county jail pending arraignment or trial, if arrested or held on bond. The option of placing a juvenile in such a facility shall not affect the misdemeanor or felony status of the offense.

(2) Juveniles committing offenses which lie outside the scope of the juvenile corrections act, [chapter 5, title 20](#), Idaho Code, and not charged under section [20-508](#) or [20-509](#), Idaho Code, may, in the discretion of the court, be sentenced:

- (a) To serve time in a juvenile detention facility rather than in a county jail; or
- (b) To serve time in a community sentencing alternative when a mandatory minimum period of incarceration is not required by statute.

The option of placing a juvenile in such a facility shall not affect the misdemeanor or felony status of the offense.

[18-113B, added 1984, ch. 82, sec. 1, p. 157; am. 2004, ch. 23, sec. 2, p. 26.]

18-114. UNION OF ACT AND INTENT. In every crime or public offense there must exist a union, or joint operation, of act and intent, or criminal negligence.

[18-114, added 1972, ch. 336, sec. 1, p. 848.]

18-115. MANIFESTATION OF INTENT. Intent or intention is manifested by the commission of the acts and surrounding circumstances connected with the offense.

[I.C., sec. 18-115, as added by 1972, ch. 336, sec. 1, p. 848; am. 1994, ch. 131, sec. 1, p. 296.]

18-116. INTOXICATION NO EXCUSE FOR CRIME. A person who is in an intoxicated condition is criminally responsible for his conduct and an intoxicated condition is not a defense to any offense and may not be taken into consideration in determining the existence of a mental state which is an element of the offense unless the defendant proves that he did not know that it was an intoxicating substance when he consumed, smoked, sniffed, injected or otherwise ingested the substance causing the condition.

[18-116, added 1972, ch. 336, sec. 1, p. 849; am. 1997, ch. 53, sec. 1, p. 92.]