

TITLE 1
COURTS AND COURT OFFICIALS

CHAPTER 2
SUPREME COURT

1-201. CONSTITUTION OF COURT. The supreme court consists of five (5) justices, a majority of whom shall be necessary to make a quorum or pronounce a decision. The justices of the supreme court shall be elected by the electors of the state at large. The terms of office of said justices shall be six (6) years. The chief justice shall receive an annual salary in an amount of three thousand dollars (\$3,000) greater than the annual salary of the justices of the supreme court to compensate for the additional constitutional and statutory duties of the office.

[(1-201) R.C., sec. 3814; reen. C.L., sec. 3814; C.S., sec. 6442; am. 1921, ch. 29, sec. 1, p. 37; I.C.A., sec. 1-201; am. 1985, ch. 29, sec. 1, p. 52; am. 2014, ch. 291, sec. 1, p. 734; am. 2017, ch. 168, sec. 1, p. 391.]

1-202. JURISDICTION IN GENERAL. The jurisdiction of this court is of two (2) kinds:

1. Original; and
2. Appellate.

[(1-202) C.C.P. 1881, sec. 19; R.S., R.C., & C.L., sec. 3815; C.S., sec. 6643; I.C.A., sec. 1-202.]

1-203. ORIGINAL JURISDICTION. Its original jurisdiction extends to the issuance of writs of mandamus, certiorari, prohibition, habeas corpus, and all writs necessary or proper to the exercise of its appellate jurisdiction.

[(1-203) C.C.P. 1881, sec. 20; R.S., R.C., & C.L., sec. 3816; C.S., sec. 6444; I.C.A., sec. 1-203.]

1-204. APPELLATE JURISDICTION. Its appellate jurisdiction extends to a review of all cases removed to it under such regulations as are now or may be prescribed by law, from the final decisions of the district courts, or the judges thereof.

[(1-204) C.C.P. 1881, sec. 21; R.S., R.C., & C.L., sec. 3817; C.S., sec. 6445; I.C.A., sec. 1-204.]

1-205. DISPOSITION OF APPEALS. The court may reverse, affirm or modify any order or judgment appealed from, and may direct the proper judgment or order to be entered, or direct a new trial or further proceedings to be had. Its judgment must be remitted to the court from which the appeal was taken. The decisions of the court shall be given in writing; and in giving a decision, if a new trial be granted, the court shall pass upon and determine all the questions of law involved in the case presented upon such appeal, and necessary to the final determination of the case.

[(1-205) C.C.P. 1881, sec. 22; R.S., R.C., & C.L., sec. 3818; C.S., sec. 6446; I.C.A., sec. 1-205.]

1-206. QUORUM -- ADJOURNMENTS. The presence of three (3) justices is necessary for the transaction of business, but one (1) of the justices may adjourn the court from day to day with the same effect as if all were present.

[(1-206) C.C.P. 1881, sec. 23; R.S., R.C., & C.L., sec. 3819; C.S., sec. 6447; am. 1921, ch. 29, sec. 2; I.C.A., sec. 1-206.]

1-207. CONCURRENCE IN DECISIONS. The concurrence of three (3) justices is necessary to pronounce a judgment; if three (3) do not concur, the case must be reheard.

[(1-207) C.C.P. 1881, sec. 24; R.S., R.C., & C.L., sec. 3820; C.S., sec. 6448; am. 1921, ch. 29, sec. 3, p. 37; I.C.A., sec. 1-207.]

1-208. TERMS AND PLACES OF HOLDING SUPREME COURT. The Supreme Court, or any three (3) of the justices thereof, may, by an order, fix the times for holding the terms of the Supreme Court, which shall not be changed oftener than once in each year, except as herein provided. At least six (6) terms shall be held annually; two (2) terms at the seat of the state government, one (1) term at Lewiston, in Nez Perce County, one (1) term at Coeur d'Alene, in Kootenai County, one (1) term at Twin Falls, in Twin Falls County, and one (1) term at Pocatello, in Bannock County.

[(1-208) 1890-1891, p. 11, sec. 1; reen. 1899, p. 6, sec. 1; R.C., sec. 3821; am. 1913, ch. 52, sec. 1, p. 161; am. 1917, ch. 42, sec. 1, p. 93; compiled and reen. C.L., sec. 3821; C.S., sec. 6449; am. 1921, ch. 29, sec. 4, p. 37; I.C.A., sec. 1-208; am. 1969, ch. 26, sec. 1, p. 50.]

1-209. PLACES OF HOLDING COURT IN CASE OF EMERGENCY. In case of epidemic, pestilence or destruction of courthouses, the justices may hold terms of the Supreme Court provided by the preceding section at other convenient places, to be fixed by a majority of the justices.

[(1-209) R.C., sec. 3821; am. 1913, ch. 52, p. 161; am. 1917, ch. 42, sec. 1, p. 93; compiled and reen. C.L., sec. 3821a; C.S., sec. 6450; I.C.A., sec. 1-209.]

1-210. BAILIFF, CRIER AND MESSENGER -- APPOINTMENT AND COMPENSATION. The court shall have power to appoint a bailiff, crier and messenger when such officers are necessary whose duties shall be fixed by the court, and whose compensation for all services rendered to the state of Idaho shall be fixed by the court and certified to the state controller, and payable as provided by law.

[(1-210) 1890-1891, p. 11, secs. 2, 4; am. 1893, p. 63, sec. 3; reen. 1899, p. 6, sec. 2, last part of secs. 6, 7; compiled R.C. & C.L., sec. 3822; C.S., sec. 6452; am. 1921, ch. 29, sec. 5, p. 37; I.C.A., sec. 1-210; am. 1957, ch. 314, sec. 1, p. 672; am. 1994, ch. 180, sec. 1, p. 423.]

1-211. EXPENSES OF SUPREME COURT OFFICERS. There must be paid to each of the justices of the Supreme Court, and to the clerk of the Supreme Court, out of the state treasury, for each term of the Supreme Court held away from Boise City, his actual expenses for subsistence, and in addition thereto, his expenses of travel; also his actual expense for subsistence, and expense

of travel in attendance to his other official duties as authorized by the Supreme Court.

The provisions hereof relating to payment of actual expenses for subsistence shall be expressly exempted from, and relating to expenses of travel shall be expressly governed by, the provisions of section [67-2008](#), Idaho Code, as amended.

[(1-211) R.S., sec. 6151, as added by 1899, p. 181, sec. 2; am. 1903, p. 47, sec. 1; reen. R.C. & C.L., sec. 3823; C.S., sec. 6453; I.C.A., sec. 1-211; am. 1949, ch. 170, sec. 1, p. 368; am. 1955, ch. 66, sec. 1, p. 132; am. 1963, ch. 112, sec. 1, p. 335.]

1-212. RULE-MAKING POWER RECOGNIZED. The inherent power of the Supreme Court to make rules governing procedure in all the courts of Idaho is hereby recognized and confirmed.

[1-212, added 1941, ch. 90, sec. 1, p. 163.]

1-213. DUTY TO MAKE RULES -- LIMITATION. The Supreme Court shall prescribe, by general rules, for all the courts of Idaho, the forms of process, writs, pleadings and motions, the manner of service, time for appearance, and the practice and procedure in all actions and proceedings. Said rules shall neither abridge, enlarge nor modify the substantive rights of any litigant.

[1-213, added 1941, ch. 90, sec. 2, p. 163.]

1-214. ASSISTANCE IN FORMULATION OF RULES. The Supreme Court is hereby authorized to appoint from among the district judges of Idaho and the members of the organized bar of Idaho such persons as it deems advisable to assist it in the formulation of such rules.

[1-214, added 1941, ch. 90, sec. 3, p. 163.]

1-215. ASSIGNMENT OF JUSTICE PRO TEMPORE IN EVENT OF VACANCY, DISQUALIFICATION, DISABILITY OR ABSENCE. (1) When there is a vacancy in any of the positions of justice of the supreme court, and until the vacancy is filled as provided by law, the supreme court may assign a senior justice of the supreme court, an active or senior judge of the court of appeals, an active or senior district judge, or an active or senior magistrate judge to sit in a cause before the supreme court.

(2) When a justice of the supreme court is disqualified from sitting in a cause before the supreme court or is unable to sit in such cause because of disability or absence, the supreme court may assign a senior justice of the supreme court, an active or senior judge of the court of appeals, an active or senior district judge, or an active or senior magistrate judge to sit in such cause.

(3) A senior justice of the supreme court, an active or senior judge of the court of appeals, an active or senior district judge, or an active or senior magistrate judge assigned pursuant to this section shall exercise all of the powers of a justice of the supreme court as to the cause upon which he or she is assigned to sit.

[1-215, added 2008, ch. 34, sec. 1, p. 66.]