


PRESENTATION BY MAGISTRATE JUDGES

SENATE JUDICIARY & RULES COMMITTEE
JANUARY 28, 2019

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
JANUARY 29, 2019



Idaho Code - Chapter 22


• 1-2201. Magistrate division of district court – Established.

Pursuant to the provisions of section 2 of article V of the Idaho Constitution there is hereby established in each county of the state of Idaho a magistrate division of the district court.

Jurisdiction of Magistrate Judges

Magistrate Judges:

- > Hear preliminary hearings to determine whether to bind over and send a defendant to the district court for trial on a felony charge;
- > Hear less serious criminal matters, known as misdemeanors;
- > Issue warrants of arrest and search warrants;
- > Hear infractions when they are contested;
- > Preside over Small Claims or "the people's court";
- > Handle habeas corpus proceedings, probate cases (wills and estates), juvenile cases, guardianships and conservatorships; child protection, civil protection orders, and domestic relation cases such as divorce, alimony, child support and child custody; and
- > Handle civil cases where the amount of money involved does not exceed \$10,000.





Today's Agenda

- > Administrative Office of the Courts
Senior Judge Barry Wood
Introduction
- > Fourth Judicial District
Judge James Cawthon (Ada County)
Pre-trial Justice
- > Third Judicial District
Judge Jayme Sullivan (Canyon County)
Civil Protection Orders/Related Orders
- > Second Judicial District
Judge Victoria Olds (Lewis County)
Impact of Amended Penalty Provisions
- > Sixth Judicial District
Judge David Kress (Bannock & Caribou County)
Guardianship and Monitoring Program and Achievements

PRETRIAL JUSTICE

Presentation by Hon. James Cawthon

The Great Seal of the State of Idaho, featuring a central figure holding a scale and a sword, surrounded by the text "GREAT SEAL OF THE STATE OF IDAHO" and "STATE OF IDAHO" on a banner below.

Civil Protection Orders/Related Orders

Presentation by Hon. Jayme Sullivan



Civil Protection Orders

Civil Protection Orders
New Civil Orders: 1/1/2018-1/1/2018

County	FC001A			FC001B		
	FC001A (FC001A or FC001B)	FC001A PART	Total	FC001B (FC001B or FC001C)	FC001B PART	Total
A	130	0	130	161	0	161
B	303	0	303	308	0	308
C	1,137	0	1,137	1,155	0	1,155
D	117	0	117	117	0	117
E	366	0	366	367	0	367
F	113	0	113	117	0	117
G	214	0	214	214	0	214
Total	4,480	0	4,480	4,447	0	4,447

County	FC001F			FC001G		
	FC001F (FC001F or FC001H)	FC001F PART	Total	FC001G (FC001G or FC001I)	FC001G PART	Total
A	18	0	18	17	0	17
B	20	107	127	111	13	124
C	811	600	1,411	1,363	77	1,440
D	74	17	91	1,001	60	1,061
E	495	100	595	400	57	457
F	492	11	503	493	700	1,193
G	200	117	317	425	400	825
Total	4,468	815	5,283	4,140	670	4,810

Using Data: 1/1/2018-1/1/2018 (Updated Statistics by Data Access and from the Attorney General's Records)

Statutes

- > §18-7906. Stalking in the Second Degree.
- > §18-7902. Malicious Harassment.
- > §18-6710. Use of Telephone to Annoy, Terrify, Threaten, Intimidate, Harass or Offend by Lewd or Profane Language, Requests, Suggestions or Proposals – Threats of Physical Harm – Disturbing the Peace by Repeated Calls – Penalties.

Impact of Amended Penalty Provisions

Presentation by Hon. Victoria Olds



Statutes

- Infractions for DWP & Invalid Driver's license (Idaho Code §§ 18-8001, 49-301)
- Tax intercept for delinquent debts owed to courts (Idaho Code §1-1624)
- Cash bail forfeiture limitations (Idaho Code §19-2908)

2018 Statutory Change: No license suspension

- Idaho Code §49-1505 – Suspension of driver's license and privileges for **failure to pay underlying traffic infraction penalty**
 - Immediate suspension for up to 90 days for nonpayment
 - No reinstatement or renewal if not paid after the 90 days
- Repealed effective July 1, 2018

2017 Statutory Change: Tax Intercept

- Amendments to Idaho Code §1-1624 affected ability to request tax intercepts from the Tax Commission on infractions
- No intercept for delinquent debts of \$50 or less

Cash Bail

- Idaho Code §19-2908* – Cash deposit applied to payment of fines, fees, costs and restitution
 - Imposed in the case
 - Imposed in any other criminal action
 - Surplus refunded to person posting cash bail

* Formerly Idaho Code §19-2923

Guardianship and Monitoring Program and Achievements



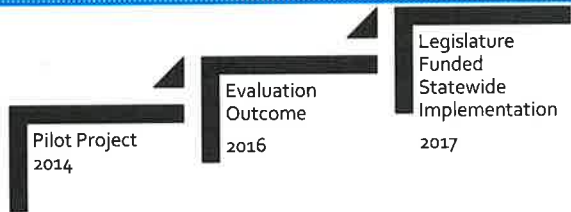
2019 Legislative Presentation
Judge David Kress

NEED FOR MONITORING

Guardianships are a powerful tool which brings needed protections but also removes fundamental rights, putting vulnerable persons at risk of abuse, neglect and exploitation. Guardianship monitoring by courts is critical to identify abuses thereby ensuring the welfare of these vulnerable individuals.

Guardianship Monitoring: A National Survey of Court Practices—ABFJ Public Policy Institute and ABA Commission on Law and Aging

MONITORING PROGRAM TIMELINE



MONITORING OUTCOMES FOR FY2018

Guardianship

- 4,397 Case Reviewed
- 995 Required Further Follow up
 - 378 home visits
 - 808 phone calls
 - 287 Hearings

Conservatorship

- 2,748 Reports Reviewed during the fiscal year
- \$278 million in combined assets under review

LACK OF GUARDIANS AND CONSERVATORS

This issue impacts everyone in the system, from the person lacking needed supports, to the court staff uncovering abuse but unable to find alternative guardians, to the healthcare systems where patients are waiting in hospital beds until a guardian can be found.



Q&A

The following slides contain more detailed material for your reference

TYPES

Incapacitated Adult

Appointed for an adult who is found incapacitated and the appointment is necessary as a means of providing care and supervision.

Minor

Appointed for a minor when all parental rights have been terminated or the child has been found to be neglected, abused, abandoned, or parents are unable to provide a stable home environment

Developmental Adult

Appointed when the adult is found to have a developmental disability and is unable to manage financial affairs or meet essential requirements for physical health or safety.

DEFINITIONS

Guardian	A person appointed by the court or a will who has responsibilities of a parent over another
Conservator	A person appointed by the court or a will to manage the estate of another
Ward	The person for whom a guardian or conservator is appointed

DEFINITIONS

Incapacity	A legal disability measured by functional limitations that will lead to substantial harm due to an inability to provide for personal needs
Estate	All of the ward's property
Interested Person	Anyone who petitions the court and has an interest in the proceedings

STATEWIDE DATA

Total New Cases Filed in FY2018 2,389	Total Number of Current Guardianships and Conservatorships 8,676
791 Minor Cases	3658 Minor Cases
598 Adult Cases	5018 Adult Cases
