

IN THE SENATE

SENATE BILL NO. 1118

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1  
2 RELATING TO SENTENCING; AMENDING SECTION 19-2521, IDAHO CODE, TO PROVIDE  
3 FOR A POLICY OF SENTENCING FOR PERSONS CONVICTED OF A CRIME, TO PROVIDE  
4 FOR CERTAIN FACTORS THAT SHALL BE ACCORDED WEIGHT IN FAVOR OF AVOIDING A  
5 SENTENCE OF IMPRISONMENT, TO PROVIDE FOR CERTAIN FACTORS THAT SHALL BE  
6 ACCORDED WEIGHT IN FAVOR OF A SENTENCE OF IMPRISONMENT, AND TO DEFINE A  
7 TERM.

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 19-2521, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 19-2521. SENTENCING CRITERIA FOR PLACING DEFENDANT ON PROBATION OR  
12 IMPOSING IMPRISONMENT. (1) The court shall deal with a policy of the state  
13 of Idaho regarding sentencing of persons who has been convicted of a crime  
14 without imposing sentence of imprisonment unless, having regard to the na-  
15 ture and circumstances of the crime and the history, character and condition  
16 of the defendant, it is of the opinion that imprisonment is appropriate for  
17 protection of the public because is as follows, unless otherwise provided by  
18 law:

19 (a) ~~There is undue risk that during the period of a suspended sentence~~  
20 ~~or probation the defendant will commit another crime~~ The goals of sen-  
21 tencing include the primary consideration of the protection of society,  
22 followed by the possibility of risk reduction through rehabilitation,  
23 deterrence of the individual and the public generally, and punishment  
24 or retribution for wrongdoing; or

25 (b) ~~The defendant is in need of correctional treatment that can be~~  
26 ~~provided most effectively by his commitment to an institution~~ Each sen-  
27 tence should be specifically tailored to the individual defendant and  
28 take into account the totality of all relevant facts and circumstances;  
29 ~~or and~~

30 (c) ~~A lesser sentence will depreciate the seriousness of the defen-~~  
31 ~~dant's crime; or~~ The sentencing court should first consider placement  
32 in the community, and the sentence imposed should call for the minimum  
33 amount of confinement that is consistent with the protection of the  
34 public, the gravity of the offense, and the rehabilitative needs of the  
35 defendant

36 (d) ~~Imprisonment will provide appropriate punishment and deterrent to~~  
37 ~~the defendant; or~~

38 (e) ~~Imprisonment will provide an appropriate deterrent for other per-~~  
39 ~~sons in the community; or~~

40 (f) ~~The defendant is a multiple offender or professional criminal.~~

1           (2) The following ~~grounds~~ factors, while not controlling the discre-  
2 tion of the court, shall be accorded weight in favor of avoiding a sentence of  
3 imprisonment:

4           (a) The defendant's criminal conduct neither caused nor threatened  
5 harm;

6           (b) The defendant did not contemplate that his criminal conduct would  
7 cause or threaten harm;

8           (c) The defendant's criminogenic needs indicate that the defendant  
9 acted under a strong provocation will benefit from supervision and  
10 treatment in the community;

11           (d) There were substantial grounds tending to excuse or justify the de-  
12 fendant's criminal conduct, though failing to establish a defense;

13           (e) The victim of the defendant's criminal conduct induced or facili-  
14 tated the commission of the crime;

15           (f) The defendant has compensated or will compensate the victim of his  
16 criminal conduct for the damage or injury that was sustained; provided,  
17 however, nothing in this section shall prevent the appropriate use of  
18 imprisonment and restitution in combination;

19           (g) The defendant has no history of prior delinquency or criminal ac-  
20 tivity or has led a law-abiding life for a substantial period of time be-  
21 fore the commission of the present crime;

22           (h) The defendant's criminal conduct was the result of circumstances  
23 unlikely to recur;

24           (i) The character and attitudes of the defendant indicate that the com-  
25 mission of another crime is unlikely; and

26           (j) The defendant demonstrates amenability to treatment.

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

29           (a) There is undue risk that during the period of a suspended sentence  
30 or probation the defendant will commit another crime harmful to a member  
31 of the public;

32           (b) A lesser sentence will depreciate the seriousness of the defen-  
33 dant's crime;

34           (c) Imprisonment will provide appropriate punishment and deterrent to  
35 the defendant;

36           (d) Imprisonment will provide an appropriate deterrent for other per-  
37 sons in the community; and

38           (e) The defendant is a multiple offender or professional criminal.

39           (4) As used in this section, the term "criminogenic needs" refers to  
40 those dynamic factors associated with the likelihood of reoffending but  
41 which may be changed through effective intervention.