

DOC Commit Comparison:

Wyoming:

7-13-103. Notice of sentence; transportation to institution; maintenance of prisoner in county jail.

(a) If a person is sentenced to the custody of the department of corrections to serve a term of imprisonment in a state penal institution, the sheriff shall notify the department of corrections and the warden of the Wyoming state penitentiary or the Wyoming women's center.

(b) Except as provided in subsection (c) of this section, the director of the department of corrections shall arrange for the transportation of the person to a state penal institution, at state expense, within ten (10) days after the judgment and sentence is signed by the judge. Except as provided in subsection (c) of this section, prior to being transported to the institution the prisoner shall be maintained in the county jail at the expense of the county.

(c) Upon agreement of the sheriff and the director of the department of corrections, the prisoner may be maintained at the county jail at an agreed per diem rate to be paid by the department for an additional period of not more than thirty (30) days after expiration of the ten (10) days provided by subsection (b) of this section. The department shall pay for any medical treatment of the prisoner, other than for conditions demanding immediate medical attention which can be treated at the county jail and other than medical treatment for which the county is liable under W.S. 18-6-303(c)(i), which is provided after the judgment and sentence is signed by the judge. Except for emergency medical treatment, no treatment which is the responsibility of the department under this subsection shall be provided without the prior approval of the department.

(d) The sheriff shall furnish the department of corrections and the warden of the Wyoming state penitentiary or the Wyoming women's center with a copy of the judgment and sentence imposed.

North Dakota:

12.1-32-02. Sentencing alternatives - Credit for time in custody - Diagnostic testing.

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:

a. Payment of the reasonable costs of the person's prosecution.

b. Probation.

c. A term of imprisonment, including intermittent imprisonment:

(1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.

(2) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.

(3) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based or faith-based programs.

(4) In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.

d. A fine.

e. Restitution for damages resulting from the commission of the offense.

f. Restoration of damaged property or other appropriate work detail.

g. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.

h. Commitment to a sexual offender treatment program.

Except as provided by section 12.1-32-06.1, sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided by section 12.1-32-01, section 12.1-32-09, or as provided specifically in a statute defining an offense. This subsection does not permit the unconditional discharge of an offender following conviction. A sentence under subdivision e or f must be imposed in the manner provided in section 12.1-32-08. If the person is sentenced to a term of imprisonment, the court may prohibit the person from contacting the victim during the term of imprisonment. For purposes of this subsection, "victim" means victim as defined in section 12.1-34-01.

2. Credit against any sentence to a term of imprisonment must be given by the court to a defendant for all time spent in custody as a result of the criminal charge for which the sentence was imposed or as a result of the conduct on which such charge was based. "Time spent in custody" includes time spent in custody in a jail or mental institution for the offense charged, whether that time is spent prior to trial, during trial, pending sentence, or pending appeal. The total amount of credit the defendant is entitled to for time spent in custody and any credit for sentence reduction under section 12-44.1-32 or 12-54.1-01 the defendant is entitled to must be stated in the criminal judgment.

3. A court may suspend the execution of all or a part of the sentence imposed. The court shall place the defendant on probation during the term of suspension.

4. A court, upon application or its own motion, may defer imposition of sentence. The court must place the defendant on probation during the period of deferment. An order deferring imposition of sentence is reviewable upon appeal from a verdict or judgment. In any subsequent prosecution, for any other offense, the prior conviction for which imposition of sentence is deferred may be pleaded and proved, and has the same effect as if probation had not been granted or the information or indictment dismissed under section 12.1-32-07.1.

5. A court may, prior to imposition of sentence, order the convicted offender committed to an appropriate licensed public or private institution for diagnostic testing for such period of time as may be necessary, but not to exceed thirty days. The court may, by subsequent order, extend the period of commitment for not to exceed thirty additional days. The court may also order such diagnostic testing without ordering commitment to an institution. Validity of a sentence must not be challenged on the ground that diagnostic testing was not performed pursuant to this subsection.
6. All sentences imposed must be accompanied by a written statement by the court setting forth the reasons for imposing the particular sentence. The statement must become part of the record of the case.
7. If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of sentencing, unless, upon motion of the defendant, the court orders the term to commence at some other time.
8. Unless otherwise specifically authorized in the statute defining the offense, a court may not include a minimum term of imprisonment as part of its sentence.
9. A person who is convicted of a felony and sentenced to imprisonment for not more than three hundred sixty days is deemed to have been convicted of a misdemeanor. However, if an order is entered revoking a term of probation that was imposed as part of a sentence, the person is deemed to have been convicted of a felony.
10. A court shall order a defendant to pay fifty dollars to the department of corrections and rehabilitation at the time a presentence investigation is initiated to partially defray the costs incurred by the department for the preparation of the presentence report. The court may also order that any additional costs incurred by the department relating to the presentence investigation and report be paid by the defendant at a rate of payment up to the full costs of conducting the investigation and preparing the report as established by the department.
11. Before sentencing a defendant on a felony charge under section 12.1-20-03, 12.1-20-03.1, 12.1-20-11, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, or 12.1-27.2-05, a court shall order the department of corrections and rehabilitation to conduct a presentence investigation and to prepare a presentence report. A presentence investigation for a charge under section 12.1-20-03 must include a risk assessment. A court may order the inclusion of a risk assessment in any presentence investigation. In all felony or class A misdemeanor offenses, in which force, as defined in section 12.1-01-04, or threat of force is an element of the offense or in violation of section 12.1-22-02, or an attempt to commit the offenses, a court, unless a presentence investigation has been ordered, must receive a criminal record report before the sentencing of the defendant. Unless otherwise ordered by the court, the criminal record report must be conducted by the department of corrections and rehabilitation after consulting with the prosecuting attorney regarding the defendant's criminal record. The criminal record report must be in writing, filed with the court before sentencing, and made a part of the court's record of the sentencing proceeding.

South Dakota:

<https://www.urban.org/sites/default/files/publication/80106/2000762-Assessing-the-Impact-of-South-Dakota%27s-Sentencing-Reforms-Justice-Reinvestment-Initiative.pdf>

Idaho:

### Idaho Criminal Rule 33. Sentence and Judgment

#### (a) Sentence.

(1) **Time for Judgment and Sentence.** After a plea or verdict of guilty, if the judgment is not stayed or a new trial granted, the court must set a time for pronouncing judgment and sentencing. When sentence is being imposed as a result of a trial resulting in a verdict of guilty, the judge who presided over the trial must also preside over the sentencing unless: (1) the judge who presided over the trial no longer holds the same judicial office that the judge held at the time of the trial; or (2) other extraordinary circumstances exist, such as the judge's disqualification, death, illness, or other disability. In felony cases, the time for pronouncing judgment and sentencing must be at least two days after the verdict unless this time is waived by the defendant. Before imposing sentence the court must give counsel an opportunity to speak on behalf of the defendant and must ask the defendant personally if the defendant wishes to make a statement and to present any information in mitigation of punishment. While awaiting sentencing the court may commit the defendant to custody or may continue or alter the bail.

#### (2) **Method of Securing Defendant's Appearance at Sentencing.**

(A) If a defendant is in custody the custodial officer must bring the defendant into court for sentencing.

(B) If a defendant, who is at liberty on defendant's own recognizance or on bail pursuant to a previous court order issued in the same criminal action, does not appear for sentencing when defendant's personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail or of money deposited, may issue a bench warrant for defendant's arrest. On taking the defendant into custody pursuant to the bench warrant the executing peace officer must, without unnecessary delay, cause defendant to be brought into court for sentencing.

(3) **Notification of Right to Appeal.** After imposing sentence the court must advise the defendant of the right to appeal and of the right of a person who is unable to pay the costs of an appeal to apply for waiver of those costs.

#### (b) **Judgment.** The judgment of conviction must state:

(1) the plea,

(2) the verdict or findings,

(3) the adjudication and sentence, and any credit for time served (for purposes of calculating credit for time served, any portion of a calendar day spent in custody counts as a day of incarceration),

(4) the terms of probation, if any.

If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment must be entered accordingly. The judgment must be signed by the judge and entered by the clerk.

(c) **Withdrawal of Plea of Guilty.** A motion to withdraw a plea of guilty may be made only before sentence is imposed or imposition of sentence is suspended; but to correct manifest injustice the court may set aside the judgment of conviction after sentence and may permit the defendant to withdraw a plea of guilty.

(d) **Commutation of Sentence and Suspending or Withholding Judgment; Conditions.** For an offense not punishable by death, the court may commute the sentence, suspend the execution of the judgment, or withhold judgment, and place the defendant on probation as provided by law and these rules. An order withholding judgment must include the terms of probation, if any. The conditions of a withheld judgment or of probation must not include any requirement of the contribution of money or property to any charity or other nongovernmental organization, but may include the rendering of labor and services to charities, governmental agencies, needy citizens and nonprofit organizations. The conditions of a withheld judgment or probation may include, among other lawful provisions, the following:

(1) a requirement that the defendant make restitution to a party injured by the defendant's action;

(2) a requirement that the defendant pay a specific sum of money to the court for the prosecution of the criminal action against the defendant, or a sum of money not to exceed the fine and court costs that could be assessed if the judgment were not suspended or withheld, (to be distributed in the manner provided in Idaho Code § 19-4705 for the distribution of fines and forfeitures); and

(3) a requirement that the defendant perform voluntary services for self-education purposes as part of a positive program of rehabilitation.

(e) **Discretionary Jail Time.** “Discretionary jail time” means jail time to be served at the discretion of the probation officer as a sanction for violating a term or condition of probation. It does not include incarceration in jail in order for a defendant to obtain treatment or programming provided in the jail, even if the probation officer determines that the treatment or programming is needed because of the defendant’s violation of a term or condition of probation.

As a condition of probation, the sentencing court may provide for the service of a specified period of discretionary jail time, to be served as follows:

(1) On receipt of a written statement of facts made under oath or affirmation by the probation officer showing probable cause to believe that the defendant violated any term or condition of probation, a court may order in writing that the defendant serve a specified number of days of the discretionary jail time.

(2) If, without a court order issued under subsection (1), a defendant is arrested under Idaho Code § 20-227 for violating a term or condition of probation, there must be a judicial determination of probable cause within 48 hours after the arrest. If, within that time period, there is no judicial finding that there was probable cause for the arrest, the defendant must be released. If there is a judicial finding of probable cause within that time period, the defendant must be released 72 hours after the arrest unless the sentencing court has ordered a longer period of jail time. If, when delivering the defendant to the jail, the probation officer informs the jail authorities in writing that the defendant is to serve a specific period of time in jail that is less than 48 hours, the defendant may be released on the conclusion of that specific period without further court approval.

(3) The number of consecutive days served as discretionary jail time must not exceed three days.

(4) Any time served in jail as discretionary jail time must be credited against the period of discretionary jail time specified as a condition of probation.

(5) If the defendant is arrested under Idaho Code § 20-227 for violating the conditions of probation and a motion seeking a judicial finding of a probation violation is not filed with respect to the conditions allegedly violated, the time served in jail because of that arrest must be credited against the period of discretionary jail time.

(6) Nothing in this Rule limits the authority of a sentencing court to impose additional terms and conditions of probation including jail time.