

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 26

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-516, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING THE APPREHENSION, RELEASE, AND
3 DETENTION OF JUVENILES AND TO REVISE TERMINOLOGY; AMENDING SECTION
4 20-520, IDAHO CODE, TO REMOVE REFERENCE TO A HABITUAL STATUS OFFENDER
5 AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 20-521, IDAHO
6 CODE, RELATING TO HABITUAL STATUS OFFENDERS; AND AMENDING SECTION
7 20-549, IDAHO CODE, TO REMOVE REFERENCE TO A HABITUAL STATUS OFFENDER
8 AND TO REVISE TERMINOLOGY.
9

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

11 SECTION 1. That Section 20-516, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 20-516. APPREHENSION AND RELEASE OF JUVENILES -- DETENTION. (1) A
14 peace officer may take a juvenile into custody, or a private citizen may
15 detain a juvenile until the juvenile can be delivered forthwith into the
16 custody of a peace officer, without order of the court:

17 (a) When he has reasonable cause to believe that the juvenile has com-
18 mitted an act ~~which~~ that would be a misdemeanor or felony if committed by
19 an adult; or

20 (b) When in the presence of a peace officer or private citizen the ju-
21 venile has violated any local, state or federal law or municipal ordi-
22 nance; or

23 (c) When there are reasonable grounds to believe the juvenile has com-
24 mitted a status offense. Status offenses are truancy, running away from
25 or being beyond the control of parents, guardian, or legal custodian,
26 alcohol age violations under section 18-1502 (e), Idaho Code, and curfew
27 violations. Status offenders shall not be placed in any jail facil-
28 ity, including juvenile detention centers, but instead may be placed
29 in juvenile shelter care facilities, except in the case of runaways,
30 when there is a specific detention request from a foreign jurisdiction
31 to hold the juvenile pending transportation arrangements, and a peace
32 officer may, in his discretion, notify the parent, guardian or legal
33 custodian. In the event of an alcohol age infraction under section
34 18-1502 (e), Idaho Code, the status offense under this section shall be
35 in addition to the infraction.

36 (2) A peace officer may take a juvenile into custody upon a written or-
37 der or warrant signed by a judge. The judge may issue the order or warrant af-
38 ter finding that there is reasonable cause to believe that the juvenile comes
39 within the purview of this chapter. Such taking into custody shall not be
40 deemed an arrest. Jurisdiction of the court shall attach from the time the
41 juvenile is taken into custody. When an officer takes a juvenile into cus-
42 tody, he shall notify the parent, guardian or custodian of the juvenile as

1 soon as possible. Unless otherwise ordered by the court, or unless it ap-
 2 pears to the officer taking the juvenile into custody that it is contrary to
 3 the welfare of society or the juvenile, such juvenile shall be released to
 4 the custody of his parent or other responsible adult upon written promise,
 5 signed by such person, to bring the juvenile to the court at a stated time.
 6 Such written promise shall be submitted to the court as soon as possible.
 7 If such person ~~shall~~ fails to produce the juvenile as agreed, or upon notice
 8 from the court, a summons for such person may be issued by the court and a war-
 9 rant may be issued for apprehension of the juvenile.

10 (3) A juvenile taken into custody may be fingerprinted and pho-
 11 tographed. Any fingerprints and photographs taken shall be forwarded as
 12 provided in subsection (8) of this section. If the court finds good cause, it
 13 may order any fingerprints and photographs expunged.

14 (4) When a juvenile is not released, he shall be taken forthwith to the
 15 court or place of detention specified by the court ~~and then~~. The juvenile
 16 shall, not later than twenty-four (24) hours, excluding Saturdays, Sundays
 17 and holidays, shall be brought before the court for a detention hearing to
 18 determine where the juvenile will be placed until the next hearing. Status
 19 offenders shall not be placed in any jail facility, including juvenile de-
 20 tention centers, but instead may be placed in juvenile shelter care facili-
 21 ties.

22 Placements may include, but are not limited to, the following:

23 (a) Parents of the juvenile;

24 (b) Relatives of the juvenile;

25 (c) Foster care;

26 (d) Group care;

27 (e) A juvenile detention center, except in the case of a status of-
 28 fender; or

29 (f) ~~Community-based~~ Diversion programs.

30 (5) The person in charge of a detention center shall give immediate no-
 31 tice to the court that the juvenile is in his custody.

32 (6) No juvenile shall be held in detention longer than twenty-four (24)
 33 hours, ~~exclusive of~~ excluding Saturdays, Sundays and holidays, unless a pe-
 34 tition has been filed and the court has signed the detention order.

35 (7) As soon as a juvenile is detained by court order, his parents,
 36 guardian or legal custodian shall be informed by notice in writing on forms
 37 prescribed by the court that they may have a prompt hearing regarding release
 38 or detention.

39 (8) A juvenile taken into detention for an offense shall be finger-
 40 printed and photographed. Fingerprints and photographs taken of juveniles
 41 shall be forwarded to the appropriate law enforcement agency and filed with
 42 the bureau of criminal identification of the Idaho state police, which shall
 43 create a juvenile offender fingerprint file and enter the fingerprint data
 44 into the automated fingerprint identification system. If the court finds
 45 good cause, it may order the fingerprints and photographs of the juvenile
 46 offender expunged.

47 (9) Peace officers' records of juveniles shall be kept separate from
 48 records of adults and shall be subject to disclosure according to chapter 1,
 49 title 74, Idaho Code.

1 SECTION 2. That Section 20-520, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 20-520. SENTENCING. (1) Upon the entry of an order finding the juve-
4 nile offender is within the purview of the act, the court shall then hold a
5 sentencing hearing in the manner prescribed by the Idaho juvenile rules to
6 determine the sentence that will promote accountability, competency devel-
7 opment and community protection. Prior to the entry of an order disposing
8 of the case, other than an order of discharge or dismissal, the court may
9 request and, if requested, shall receive a report containing the results of
10 an inquiry into the home environment, past history, competency development,
11 prevention or out_of_home placement services provided, and the social,
12 physical and mental condition of the juvenile offender. The court shall not
13 consider or review the report prior to the entry of an order of adjudication.
14 Upon presentation and consideration of the report by the court, the court may
15 proceed to sentence the juvenile offender as follows:

16 (a) Place the juvenile offender on formal probation for a period not
17 to exceed three (3) years from the date of the order, except the court
18 may place a juvenile offender on formal probation for a period not to
19 exceed the juvenile offender's twenty-first birthday if the court finds
20 that the juvenile offender has committed a crime of a sexual nature. If
21 a juvenile offender is committed to the Idaho department of juvenile
22 corrections pursuant to paragraph (s) of this subsection, the court may
23 place the juvenile offender on probation from the date of sentencing up
24 to three (3) years past the date of release from custody or the juvenile
25 offender's twenty-first birthday, whichever occurs first; provided the
26 court shall conduct a review hearing within thirty (30) days follow-
27 ing release of the juvenile offender from the department of juvenile
28 corrections in order to determine the conditions and term of such proba-
29 tion;

30 (b) Sentence the juvenile offender to detention pursuant to this act
31 for a period not to exceed thirty (30) days for each act, omission or
32 status ~~which~~ that is prohibited by the federal, state, local or munic-
33 ipal law or ordinance by reason of minority only. The sentence shall
34 not be executed unless the act, omission or status is in violation of 18
35 U.S.C. 922(x), or the court finds that the juvenile offender has vio-
36 lated the court's decree imposing the sentence as provided in this sub-
37 section.

38 If the court, after notice and hearing, finds that a juvenile of-
39 fender has violated the court's decree imposing the sentence under cir-
40 cumstances that bring the violation under the valid court order excep-
41 tion of the federal juvenile justice and delinquency prevention act of
42 1974, as amended, the court may commit the juvenile offender to deten-
43 tion for the period of detention previously imposed at sentencing;

44 (c) Commit the juvenile offender to a period of detention, pursuant to
45 this act, for a period of time not to exceed ninety (90) days for each un-
46 lawful or criminal act the juvenile offender is found to have committed,
47 or if the unlawful or criminal act would be a misdemeanor if committed by
48 an adult, ~~or where the juvenile offender has been adjudicated as an ha-~~
49 ~~bitual status offender;~~

1 (d) If the juvenile offender has committed an unlawful or criminal act
2 ~~which that~~ would be a felony if committed by an adult, the court may com-
3 mit the juvenile offender to detention for a period not to exceed one
4 hundred eighty (180) days for each unlawful or criminal act;

5 (e) Whenever a court commits a juvenile offender to a period of deten-
6 tion, the juvenile detention center shall notify the school district
7 where the detention center is located. No juvenile offender who is
8 found to come within the purview of the act for the commission of a sta-
9 tus offense shall be sentenced to detention in a jail facility ~~unless~~
10 ~~an adjudication has been made that the juvenile offender is an habitual~~
11 ~~status offender;~~

12 (f) Commit the juvenile offender to detention and suspend the sentence
13 on specific probationary conditions;

14 (g) The court may suspend or restrict the juvenile offender's driving
15 privileges for such periods of time as the court deems necessary, and
16 the court may take possession of the juvenile offender's driver's li-
17 cense. The juvenile offender may request restricted driving privileges
18 during a period of suspension, which the court may allow if the juvenile
19 offender shows by a preponderance of evidence that driving privileges
20 are necessary for his employment or for family health needs;

21 (h) The court may order that the juvenile offender be examined or
22 treated by a physician, surgeon, psychiatrist or psychologist, or that
23 he receive other special care, or that he submit to an alcohol or drug
24 evaluation, if needed, and for such purposes may place the juvenile of-
25 fender in a hospital or other suitable facility;

26 (i) The court may order that the county probation office authorize a
27 comprehensive substance abuse assessment of the juvenile offender. Af-
28 ter receiving the comprehensive substance abuse assessment, and upon a
29 finding by the court that treatment will provide a cost-effective means
30 of achieving the sentencing goals of accountability, competency devel-
31 opment and community protection, the court may order that the juvenile
32 offender receive immediate treatment for substance abuse in keeping
33 with a plan of treatment approved by the court. The initial cost of the
34 assessment and treatment shall be borne by the department of juvenile
35 corrections with funds allocated to the county probation office. The
36 director of the department of juvenile corrections may promulgate rules
37 consistent with this paragraph to establish a schedule of fees to be
38 charged to parents by the county probation office for such services
39 based upon the cost of the services and the ability of parents to pay;

40 (j) In support of an order under the provisions of this section, the
41 court may make an additional order setting forth reasonable conditions
42 to be complied with by the parents, the juvenile offender, his legal
43 guardian or custodian, or any other person who has been made a party to
44 the proceedings, including, but not limited to, restrictions on visi-
45 tation by the parents or one (1) parent, restrictions on the juvenile
46 offender's associates, occupation and other activities, and require-
47 ments to be observed by the parents, guardian or custodian;

48 (k) The court may make any other reasonable order ~~which that~~ is in the
49 best interest of the juvenile offender or is required for the protection
50 of the public, except that no person under the age of eighteen (18) years

1 may be committed to jail, prison or a secure facility ~~which~~ that does not
2 meet the standards set forth in section 20-518, Idaho Code, unless ju-
3 risdiction over the individual is in the process of being waived or has
4 been waived pursuant to section 20-508 or 20-509, Idaho Code. The court
5 may combine several of the above-listed modes of disposition where they
6 are compatible;

7 (l) An order under the provisions of this section for probation or
8 placement of a juvenile offender with an individual or an agency may
9 provide a schedule for review of the case by the court;

10 (m) Order the proceeding expanded or altered to include consideration
11 of the cause pursuant to chapter 16, title 16, Idaho Code;

12 (n) Order the case and all documents and records connected therewith
13 transferred to the magistrate division of the district court for the
14 county where the juvenile offender and/or parents reside if different
15 than the county where the juvenile offender was charged and found to
16 have committed the unlawful or criminal act, for the entry of a disposi-
17 tional order;

18 (o) Order such other terms, conditions, care or treatment as appears to
19 the court will best serve the interests of the juvenile offender and the
20 community;

21 (p) The court shall assess a twenty dollar (\$20.00) detention/proba-
22 tion training academy fee against the juvenile offender for every pe-
23 tition filed where there has been an adjudication that the juvenile of-
24 fender is within the purview of this chapter. All moneys raised pur-
25 suant to this paragraph shall be transmitted by the court for deposit
26 in the juvenile corrections fund, which is created in section 20-542,
27 Idaho Code;

28 (q) Additionally, the court shall assess a fee of sixty cents (60¢) per
29 hour of community service against the juvenile offender for every pe-
30 tition filed where there has been an adjudication that the juvenile of-
31 fender is within the purview of this chapter and the court is ordering
32 community service. Such fee is to be remitted by the court to the state
33 insurance fund for purposes of providing worker's compensation insur-
34 ance for persons performing community service pursuant to this chapter.
35 However, if a county is self-insured and provides worker's compensation
36 insurance for persons performing community service pursuant to the pro-
37 visions of this chapter, then remittance to the state insurance fund is
38 not required;

39 (r) Additionally, the court may assess a monthly probation supervision
40 fee that shall be an amount not more than the maximum monthly misde-
41 meanor probation supervision fee set forth in section 31-3201D, Idaho
42 Code, per month, or such lesser sum as determined by the administrative
43 judge of the judicial district, against the juvenile offender placed on
44 probation. The amount of the monthly probation supervision fee shall be
45 paid to the clerk of the district court who shall deposit such fee into
46 the county juvenile probation fund, which is hereby created, in each
47 county or, at the option of the board of county commissioners, deposited
48 in the county justice fund to be used for county juvenile probation
49 services. Moneys from this fee may be accumulated from year to year and

1 shall be expended exclusively for county juvenile probation services
2 and related purposes;

3 (s) Commit the juvenile offender to the legal custody of the department
4 of juvenile corrections for an indeterminate period of time, not to
5 exceed the juvenile offender's nineteenth birthday, unless the custody
6 review board determines that extended time in custody is necessary to
7 address competency development, accountability, and community protec-
8 tion; provided however, that no juvenile offender shall remain in the
9 custody of the department beyond the juvenile offender's twenty-first
10 birthday. The department shall adopt rules implementing the custody
11 review board and operations and procedures of such board. Juvenile
12 offenders convicted as adults and placed in the dual custody of the
13 department of juvenile corrections and the state board of correction
14 under section 19-2601A, Idaho Code, are under the retained jurisdiction
15 of the court and are not within the purview of the custody review board;

16 (t) Notwithstanding any other provision of this section, a court may
17 not commit a juvenile offender under the age of ten (10) years to a pe-
18 riod of detention or to the custody of the department of juvenile cor-
19 rections for placement in secure confinement.

20 (2) When an order is entered pursuant to this section, the juvenile
21 offender shall be transported to the facility or program so designated by the
22 court or the department, as applicable, by the sheriff of the county where
23 the juvenile offender resides or is committed, or by an appointed agent.
24 When committing a juvenile offender to the department, or another entity,
25 the court shall at once forward to the department or entity a certified copy
26 of the order of commitment.

27 (3) Unless the court determines that an order of restitution would be
28 inappropriate or undesirable, it shall order the juvenile offender or his
29 parents or both to pay restitution to or make whole any victim who suffers an
30 economic loss as a result of the juvenile offender's conduct in accordance
31 with the standards and requirements of sections 19-5304 and 19-5305, Idaho
32 Code. The amount of restitution ~~which~~ that may be ordered by the court shall
33 not be subject to the limitations of section 6-210, Idaho Code. Court-or-
34 dered restitution shall be paid prior to any other court-ordered payments
35 unless the court specifically orders otherwise. The clerk of the district
36 court, with the approval of the administrative district judge, may use the
37 procedures set forth in section 19-4708, Idaho Code, for the collection of
38 the restitution.

39 (4) The court may order the juvenile offender's parents or custodian to
40 pay the charges imposed by community programs ordered by the court for the
41 juvenile offender, or the juvenile offender's parents or custodian.

42 (5) Any parent, legal guardian or custodian violating any order of the
43 court entered against the person under the provisions of this chapter shall
44 be subject to contempt proceedings under the provisions of chapter 6, title
45 7, Idaho Code.

46 (6) The clerk of the district court, with the approval of the adminis-
47 trative district judge, may use the procedures set forth in section 19-4708,
48 Idaho Code, for the collection of other debts owed to the court by the juve-
49 nile offender.

1 SECTION 3. That Section 20-521, Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 4. That Section 20-549, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 20-549. CURFEW VIOLATIONS -- CITATION -- NOTIFICATION. Violation by a
6 juvenile offender of a curfew established by a municipal or county ordinance
7 shall constitute an infraction and ~~shall be~~ is punishable by a fine of one
8 hundred fifty dollars (\$150). Fines shall be deposited in the county juve-
9 nile justice fund of the county where the violation occurred, or if such a
10 fund has not been established, then in the current county expense account for
11 juvenile corrections purposes in the county where the violation occurred.
12 Detention of a juvenile offender in a county jail or detention center for vi-
13 olation of a curfew is prohibited, ~~unless the juvenile offender is an habit-~~
14 ~~ual status offender as defined in section 20-521, Idaho Code.~~

15 Any peace officer may issue a citation for violation of a curfew that
16 shall thereafter proceed under the juvenile corrections act in the same man-
17 ner as though the violation was charged by a petition. Citations shall be is-
18 sued on the Idaho uniform citation form. The peace officer issuing a curfew
19 citation may detain the violator and at the time the citation is issued shall
20 make a reasonable effort to obtain the endorsement of the juvenile's par-
21 ent or legal guardian on the citation. If the endorsement of a parent or le-
22 gal guardian cannot be obtained with the exercise of reasonable diligence, a
23 copy of the citation shall be hand delivered or mailed to the juvenile's par-
24 ent or legal guardian by a peace officer at least seven (7) days prior to the
25 date set for the juvenile's appearance. The citation ~~shall~~ must provide a
26 date certain for the appearance before a magistrate of the juvenile and par-
27 ent or legal guardian.