

IN THE SENATE

SENATE BILL NO. 1122

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO JUVENILES; AMENDING SECTION 19-4708, IDAHO CODE, TO PROVIDE
2 FOR JUVENILE OFFENDERS, TO REVISE A DEFINITION, AND TO MAKE A TECHNICAL
3 CORRECTION; AMENDING SECTION 20-520, IDAHO CODE, TO PROVIDE FOR A CER-
4 TAIN MONTHLY PROBATION SUPERVISION FEE, TO PROVIDE THAT THE CLERK OF THE
5 COURT MAY USE CERTAIN PROCEDURES REGARDING DEBTS, TO PROVIDE A CORRECT
6 CODE REFERENCE, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
7 20-529, IDAHO CODE, TO PROVIDE THAT COUNTY JUVENILE PROBATION SERVICES
8 MAY BE PAID FOR FROM CERTAIN FUNDS; AND AMENDING SECTION 20-532, IDAHO
9 CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL COR-
10 RECTION.
11

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

13 SECTION 1. That Section 19-4708, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 19-4708. COLLECTION OF DEBTS OWED TO COURTS -- CONTRACTS FOR COLLEC-
16 TION. (1) The supreme court, or the clerks of the district court with the ap-
17 proval of the administrative district judge, may enter into contracts in ac-
18 cordance with this section for collection services for debts owed to courts.
19 The cost of collection shall be paid by the defendant or juvenile offender as
20 an administrative surcharge when the defendant or juvenile offender fails to
21 pay any amount ordered by the court and the court utilizes the services of a
22 contracting agent pursuant to this section.

23 (2) As used in this section:

24 (a) "Contracting agent" means a person, firm or other entity who con-
25 tracts to provide collection services.

26 (b) "Cost of collection" means the fee specified in contracts to be paid
27 to or retained by a contracting agent for collection services.

28 (c) "Debts owed to courts" means any assessment of fines, court costs,
29 surcharges, penalties, fees, restitution, moneys expended in providing
30 counsel and other defense services to indigent defendants or juvenile
31 offenders or other charges which a court judgment or disposition has or-
32 dered to be paid to the court in civil, criminal, or juvenile cases, and
33 which remain unpaid in whole or in part, and includes any interest or
34 penalties on such unpaid amounts as provided for in the judgment or by
35 law.

36 (3) The supreme court may adopt rules as deemed appropriate for the ad-
37 ministration of this section, including procedures to be used in the negoti-
38 ation and execution of contracts pursuant to this section, procedures to be
39 followed by courts which utilize collection services under such contracts,
40 and procedures for the compromise of debts owed to courts in criminal or ju-
41 venile cases.

1 (4) Each contract entered into pursuant to this section shall specify
2 the scope of work to be performed and provide for a fee to be paid to or re-
3 tained by the contracting agent for collection services. Such fee shall be
4 designated as the cost of collection, and shall not exceed thirty-three per-
5 cent (33%) of the amount collected. The cost of collection shall be deducted
6 from the amount collected but shall not be deducted from the debts owed to
7 courts.

8 (5) Contracts entered into shall provide for the payment of any amounts
9 collected to the clerk of the district court for the court in which the debt
10 being collected originated after first deducting the collection fee. In ac-
11 counting for amounts collected from any person pursuant to this section, the
12 district court clerk shall credit the person's amount owed in the amount of
13 the net proceeds collected and shall not reduce the amount owed by any person
14 by that portion of any payment which constitutes the cost of collection pur-
15 suant to this section.

16 (6) With the appropriate cost of collection paid to the contracting
17 agent as agreed upon in the contract, the clerk shall then distribute the
18 amounts collected in accordance with the law.

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

21 20-520. SENTENCING. (1) Upon the entry of an order finding the juve-
22 nile offender is within the purview of the act, the court shall then hold a
23 sentencing hearing in the manner prescribed by the Idaho juvenile rules to
24 determine the sentence that will promote accountability, competency devel-
25 opment and community protection. Prior to the entry of an order disposing
26 of the case, other than an order of discharge or dismissal, the court may re-
27 quest and, if requested, shall receive a report containing the results of
28 an inquiry into the home environment, past history, competency development,
29 prevention or out of home placement services provided, and the social, phys-
30 ical and mental condition of the juvenile offender. The court shall not con-
31 sider or review the report prior to the entry of an order of adjudication.
32 Upon presentation and consideration of the report by the court, the court may
33 proceed to sentence the juvenile offender as follows:

34 (a) Place the juvenile offender on formal probation for a period not to
35 exceed three (3) years from the date of the order, except the court may
36 place a juvenile offender on formal probation for a period not to exceed
37 the juvenile offender's twenty-first birthday if the court finds that
38 the juvenile offender has committed a crime of a sexual nature. If a ju-
39 venile offender is committed to the Idaho department of juvenile cor-
40 rections pursuant to paragraph (~~¶~~s) of this subsection, the court may
41 place the juvenile offender on probation from the date of sentencing up
42 to three (3) years past the date of release from custody or the juvenile
43 offender's twenty-first birthday, whichever occurs first; provided the
44 court shall conduct a review hearing within thirty (30) days following
45 release of the juvenile offender from the department of juvenile cor-
46 rections in order to determine the conditions and term of such proba-
47 tion;

48 (b) Sentence the juvenile offender to detention pursuant to this act
49 for a period not to exceed thirty (30) days for each act, omission or

1 status which is prohibited by the federal, state, local or municipal law
2 or ordinance by reason of minority only. The sentence shall not be ex-
3 ecuted unless the act, omission or status is in violation of 18 U.S.C.
4 ~~section~~ 922(x), or the court finds that the juvenile offender has vio-
5 lated the court's decree imposing the sentence as provided in this sub-
6 section.

7 If the court, after notice and hearing, finds that a juvenile of-
8 fender has violated the court's decree imposing the sentence under cir-
9 cumstances that bring the violation under the valid court order excep-
10 tion of the federal juvenile justice and delinquency prevention act of
11 1974, as amended, the court may commit the juvenile offender to deten-
12 tion for the period of detention previously imposed at sentencing;

13 (c) Commit the juvenile offender to a period of detention, pursuant to
14 this act, for a period of time not to exceed ninety (90) days for each un-
15 lawful or criminal act the juvenile offender is found to have committed,
16 if the unlawful or criminal act would be a misdemeanor if committed by an
17 adult, or where the juvenile offender has been adjudicated as an habit-
18 ual status offender;

19 (d) If the juvenile offender has committed an unlawful or criminal act
20 which would be a felony if committed by an adult, the court may commit
21 the juvenile offender to detention for a period not to exceed one hun-
22 dred eighty (180) days for each unlawful or criminal act;

23 (e) Whenever a court commits a juvenile offender to a period of deten-
24 tion, the juvenile detention center shall notify the school district
25 where the detention center is located. No juvenile offender who is
26 found to come within the purview of the act for the commission of a sta-
27 tus offense shall be sentenced to detention in a jail facility unless
28 an adjudication has been made that the juvenile offender is an habitual
29 status offender;

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

32 (g) The court may suspend or restrict the juvenile offender's driving
33 privileges for such periods of time as the court deems necessary, and
34 the court may take possession of the juvenile offender's driver's li-
35 cense. The juvenile offender may request restricted driving privileges
36 during a period of suspension, which the court may allow if the juvenile
37 offender shows by a preponderance of evidence that driving privileges
38 are necessary for his employment or for family health needs;

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

44 (i) The court may order that the county probation office authorize a
45 comprehensive substance abuse assessment of the juvenile offender. Af-
46 ter receiving the comprehensive substance abuse assessment, and upon a
47 finding by the court that treatment will provide a cost-effective means
48 of achieving the sentencing goals of accountability, competency devel-
49 opment and community protection, the court may order that the juvenile
50 offender receive immediate treatment for substance abuse in keeping

1 with a plan of treatment approved by the court. The initial cost of the
2 assessment and treatment shall be borne by the department of juvenile
3 corrections with funds allocated to the county probation office. The
4 director of the department of juvenile corrections may promulgate rules
5 consistent with this paragraph to establish a schedule of fees to be
6 charged to parents by the county probation office for such services
7 based upon the cost of the services and the ability of parents to pay;

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

16 (k) The court may make any other reasonable order which is in the best
17 interest of the juvenile offender or is required for the protection of
18 the public, except that no person under the age of eighteen (18) years
19 may be committed to jail, prison or a secure facility which does not meet
20 the standards set forth in section 20-518, Idaho Code, unless jurisdic-
21 tion over the individual is in the process of being waived or has been
22 waived pursuant to section 20-508 or 20-509, Idaho Code. The court may
23 combine several of the above-listed modes of disposition where they are
24 compatible;

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

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

30 (n) Order the case and all documents and records connected therewith
31 transferred to the magistrate division of the district court for the
32 county where the juvenile offender and/or parents reside if different
33 than the county where the juvenile offender was charged and found to
34 have committed the unlawful or criminal act, for the entry of a disposi-
35 tional order;

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

39 (p) The court shall assess a twenty dollar (\$20.00) detention/probation
40 training academy fee against the juvenile offender for every peti-
41 tion filed where there has been an adjudication that the juvenile of-
42 fender is within the purview of this chapter. All moneys raised pur-
43 suant to this paragraph shall be transmitted by the court for deposit in
44 the juvenile corrections fund which is created in section 20-542, Idaho
45 Code;

46 (q) Additionally, the court shall assess a fee of sixty cents (60¢) per
47 hour of community service against the juvenile offender for every peti-
48 tion filed where there has been an adjudication that the juvenile of-
49 fender is within the purview of this chapter and the court is ordering
50 community service. Such fee is to be remitted by the court to the state

1 insurance fund for purposes of providing worker's compensation insur-
2 ance for persons performing community service pursuant to this chapter.
3 However, if a county is self-insured and provides worker's compensation
4 insurance for persons performing community service pursuant to the pro-
5 visions of this chapter, then remittance to the state insurance fund is
6 not required;

7 (r) Additionally, the court may assess a monthly probation supervision
8 fee that shall be an amount not more than the maximum monthly misde-
9 meanor probation supervision fee set forth in section 31-3201D, Idaho
10 Code, per month, or such lesser sum as determined by the administrative
11 judge of the judicial district, against the juvenile offender placed on
12 probation. The amount of the monthly probation supervision fee shall be
13 paid to the clerk of the district court who shall deposit such fee into
14 the county juvenile probation fund, which is hereby created, in each
15 county or, at the option of the board of county commissioners, deposited
16 in the county justice fund to be used for county juvenile probation
17 services. Moneys from this fee may be accumulated from year to year and
18 shall be expended exclusively for county juvenile probation services
19 and related purposes;

20 (s) Commit the juvenile offender to the legal custody of the department
21 of juvenile corrections for an indeterminate period of time not to ex-
22 ceed the juvenile offender's nineteenth birthday, unless the custody
23 review board determines that extended time in custody is necessary to
24 address competency development, accountability, and community protec-
25 tion; provided however, that no juvenile offender shall remain in the
26 custody of the department beyond the juvenile offender's twenty-first
27 birthday. The department shall adopt rules implementing the custody
28 review board and operations and procedures of such board. Juvenile
29 offenders convicted as adults and placed in the dual custody of the
30 department of juvenile corrections and the state board of correction
31 under section 19-2601A, Idaho Code, are under the retained jurisdiction
32 of the court and are not within the purview of the custody review board;

33 (st) Notwithstanding any other provision of this section, a court may
34 not commit a juvenile offender under the age of ten (10) years to a pe-
35 riod of detention or to the custody of the department of juvenile cor-
36 rections for placement in secure confinement.

37 (2) When an order is entered pursuant to this section, the juvenile
38 offender shall be transported to the facility or program so designated by the
39 court or the department, as applicable, by the sheriff of the county where
40 the juvenile offender resides or is committed, or by an appointed agent.
41 When committing a juvenile offender to the department, or another entity,
42 the court shall at once forward to the department or entity a certified copy
43 of the order of commitment.

44 (3) Unless the court determines that an order of restitution would be
45 inappropriate or undesirable, it shall order the juvenile offender or his
46 parents or both to pay restitution to or make whole any victim who suffers an
47 economic loss as a result of the juvenile offender's conduct in accordance
48 with the standards and requirements of sections 19-5304 and 19-5305, Idaho
49 Code. The amount of restitution which may be ordered by the court shall not
50 be subject to the limitations of section 6-210, Idaho Code. Court-ordered

1 restitution shall be paid prior to any other court-ordered payments unless
2 the court specifically orders otherwise. The clerk of the district court,
3 with the approval of the administrative district judge, may use the proce-
4 dures set forth in section 19-4708, Idaho Code, for the collection of the
5 restitution.

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

9 (5) Any parent, legal guardian or custodian violating any order of the
10 court entered against the person under the provisions of this chapter shall
11 be subject to contempt proceedings under the provisions of chapter 6, title
12 7, Idaho Code.

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

17 SECTION 3. That Section 20-529, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 20-529. APPOINTMENT OF COUNTY PROBATION OFFICERS. The courts in the
20 several counties of this state shall enter into a contract or agreement for
21 probation services to the counties or, if the court deems local probation
22 services are preferable, may appoint one (1) or more persons to serve as
23 probation officers at the expense of the county with the concurrence of the
24 county commissioners. County juvenile probation services may be paid for
25 from funds generated by the fees collected pursuant to the provisions of
26 section 20-520, Idaho Code, and any additional funds that may be annually
27 appropriated by the board of county commissioners.

28 SECTION 4. That Section 20-532, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 20-532. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. A juvenile of-
31 fender committed to a secure facility shall remain until the juvenile of-
32 fender reaches nineteen (19) years of age, is retained for extended custody
33 pursuant to section 20-520(1) (~~is~~), Idaho Code, or is released or discharged.
34 A juvenile offender committed to a secure facility shall appear before the
35 department within ninety (90) days after commitment, for review of treatment
36 plans.