

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 451

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-502, IDAHO  
2 CODE, TO DEFINE A TERM AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
3 SECTION 20-532, IDAHO CODE, TO PROVIDE THAT A JUVENILE OFFENDER SHALL  
4 APPEAR BEFORE THE CUSTODY REVIEW BOARD IN CERTAIN INSTANCES AND TO MAKE  
5 TECHNICAL CORRECTIONS; AMENDING SECTION 39-1202, IDAHO CODE, TO PRO-  
6 VIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND  
7 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
8

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

10 SECTION 1. That Section 20-502, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 20-502. DEFINITIONS. When used in this chapter, unless the context  
13 otherwise requires:

14 (1) "Adult" means a person eighteen (18) years of age or older.

15 (2) "Assessment" means a comprehensive and individualized examination  
16 of the mental health, substance use, or other needs for a juvenile that typi-  
17 cally results in treatment interventions and recommendations.

18 (3) "Commit" means to transfer legal custody.

19 (4) "Community-based program" means an in-home confinement program or  
20 a nonsecure or staff-secure residential or nonresidential program operated  
21 to supervise and provide competency development to juvenile offenders in the  
22 least restrictive setting, consistent with public safety, operated by the  
23 state or under contract with the state or by the county.

24 (5) "Court" means any district court within the state of Idaho or magis-  
25 trate division thereof.

26 (6) "Custody review board" means the board created and authorized by  
27 law to review cases of juveniles in custody of the department.

28 (7) "Department" means the state department of juvenile corrections.

29 (78) "Detention" means the temporary placement of juvenile offenders  
30 who require secure custody for their own or the community's protection in  
31 physically restricting facilities.

32 (89) "Director" means the director of the department of juvenile cor-  
33 rections.

34 (910) "Diversion" means an alternative to formal prosecution of a ju-  
35 venile offense. Diversion describes intervention approaches that redirect  
36 juveniles away from formal court processing in the juvenile justice system  
37 while applying the principles of the balanced approach and restorative jus-  
38 tice. Diversion strategies take place at arrest, referral, intake, or prior  
39 to or after the filing of a petition and should provide the same array of ser-  
40 vices as formal court processing, except for detention. Diversion may be ap-  
41 propriate for low-risk or moderate-risk offenders as informed by results of  
42 a valid screening instrument.

1 (101) "Judge" means a district judge or a magistrate.

2 (112) "Juvenile" means a person less than eighteen (18) years of age or  
3 who was less than eighteen (18) years of age at the time of any alleged act,  
4 omission or status.

5 (123) "Juvenile correctional center" means any state-operated residen-  
6 tial facility or facility operated pursuant to a contract with the state that  
7 provides twenty-four (24) hour supervision and confinement for juvenile of-  
8 fenders committed to the custody of the department.

9 (134) "Juvenile detention center" means a secure facility established  
10 pursuant to sections 20-517 and 20-518, Idaho Code, and in compliance with  
11 IDAPA 05.01.02.

12 (145) "Juvenile offender" means a person under the age of eighteen (18)  
13 years at the time of any act, omission or status and who has been adjudicated  
14 as being within the purview of this chapter.

15 (156) "Legal custody" means the relationship created by the court's de-  
16 cree that imposes upon the custodian responsibilities of physical posses-  
17 sion of the juvenile offender, the duty to protect, train and discipline him  
18 and to provide him with food, shelter, education and ordinary medical care.

19 (167) "Legal guardian" means a person appointed as guardian of a minor  
20 under the laws of Idaho. For the purposes of this chapter, legal guardian  
21 does not include and shall not be construed to include the owner, or operator  
22 or the agent of an owner or operator of a detention center, observation and  
23 assessment center, secure facility, residential facility or other facility  
24 having temporary or long-term physical custody of the juvenile offender.

25 (178) "Observation and assessment program" means any state-operated or  
26 purchased service program responsible for temporary custody of juvenile of-  
27 fenders for observation and assessment.

28 (189) "Screening" means a brief process, typically using a validated  
29 tool to identify juveniles who warrant immediate attention, intervention,  
30 or a more comprehensive assessment. Screening tools help guide and identify  
31 juveniles who might be appropriate for diversion or who need comprehensive  
32 mental health or substance use assessments.

33 (1920) "Secure facility" means any architecturally secure residential  
34 facility that provides twenty-four (24) hour supervision and confinement  
35 for juvenile offenders committed to the custody of the department.

36 (201) "Staff-secure facility" means a nonarchitecturally secure resi-  
37 dential facility with awake staff twenty-four (24) hours a day, seven (7)  
38 days a week for intensive supervision of juvenile offenders.

39 (212) "Validated risk/needs assessment" means a validated instrument  
40 that measures a juvenile's criminal risk factors and specific needs that, if  
41 addressed, should reduce the juvenile's likelihood to reoffend.

42 (223) "Work program" means a public service work project that employs  
43 juvenile offenders at a reasonable wage for the purpose of reimbursing vic-  
44 tims of the juvenile offender's delinquent behavior.

45 SECTION 2. That Section 20-532, Idaho Code, be, and the same is hereby  
46 amended to read as follows:

47 20-532. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. (1) A juvenile  
48 offender committed to a secure facility shall remain until the juvenile of-  
49 fender:

- 1        (a) Reaches nineteen (19) years of age;  
 2        (b) Is retained for extended custody pursuant to section  
 3        20-520(1)(s), Idaho Code; or  
 4        (c) Is released or discharged.  
 5        (2) A juvenile offender committed to a secure facility shall appear be-  
 6        fore the department within ninety (90) days after commitment for review of  
 7        treatment plans. Additionally, the juvenile offender shall appear before  
 8        the custody review board prior to eighteen (18) consecutive months in cus-  
 9        tody, and every six (6) months thereafter, to review his continued custody  
 10       with the department.

11       SECTION 3. That Section 39-1202, Idaho Code, be, and the same is hereby  
 12       amended to read as follows:

- 13       39-1202. DEFINITIONS. For the purposes of this chapter:  
 14       (1) "Board" means the Idaho board of health and welfare.  
 15       (2) "Child care" means that care, control, supervision or maintenance  
 16       of children for twenty-four (24) hours a day ~~which is~~ provided as an alterna-  
 17       tive to parental care.  
 18       (3) "Child" means an individual less than eighteen (18) years of age who  
 19       is not enrolled in an institution of higher education.  
 20       (4) "Children's agency" means a person who operates a business for the  
 21       placement of children in foster homes or for adoption in a permanent home  
 22       and who does not provide child care as part of that business. Children's  
 23       agency does not include a licensed attorney or physician assisting or pro-  
 24       viding natural and adoptive parents with legal services or medical services  
 25       necessary to initiate and complete adoptive placements.  
 26       (5) "Children's camp" means a program of child care at a location away  
 27       from the child's home ~~which~~ that is primarily recreational and includes the  
 28       overnight accommodation of the child and is not intended to provide treat-  
 29       ment, therapy or rehabilitation for the child.  
 30       (6) "Children's institution" means a person who operates a residential  
 31       facility for children not related to that person if that person is an indi-  
 32       vidual, for the purpose of providing child care. Children's institutions  
 33       include, but are not limited to, foster homes, maternity homes, children's  
 34       therapeutic outdoor programs, or any facilities providing treatment, ther-  
 35       apy or rehabilitation for children. Children's institutions do not include:  
 36       (a) facilities ~~which~~ that provide only daycare as defined in chapter 11, ti-  
 37       tle 39, Idaho Code; (b) facilities and agencies including hospitals, skilled  
 38       nursing facilities, intermediate care facilities, and intermediate care  
 39       facilities for people with intellectual disabilities licensed pursuant to  
 40       chapter 13, title 39, Idaho Code; (c) day schools; (d) individuals acting  
 41       in an advisory capacity, counseling a child in a religious context, and pro-  
 42       viding no child care associated with the advice; or (e) the occasional or  
 43       irregular care of a neighbor's, relative's or friend's child or children by a  
 44       person not ordinarily engaged in child care.  
 45       (7) "Children's residential care facility" means a children's institu-  
 46       tion, excluding:  
 47       (a) Foster homes;  
 48       (b) Residential schools;  
 49       (c) Children's camps.

1 No facility expressly excluded from the definition of a children's institu-  
2 tion is included within the definition of a children's residential care fa-  
3 cility.

4 (8) "Children's therapeutic outdoor program" is a program ~~which is~~ de-  
5 signed to provide behavioral, substance abuse, or mental health services to  
6 minors in an outdoor setting. This does not include children's camps, church  
7 camps, or other outdoor programs primarily designed to be educational or  
8 recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

9 (9) "Continued care" means the ongoing placement of an individual in a  
10 foster home, children's residential care facility, or transitional living  
11 placement who reaches the age of eighteen (18) years but is less than twenty-  
12 one (21) years of age.

13 (10) "Day school" means a public, private, parochial or secular facil-  
14 ity offering an educational program in which the children leave the facility  
15 each day at the conclusion of the academic, vocational or school-supervised  
16 activities.

17 (11) "Department" means the state department of health and welfare.

18 (12) "Director" means the director of the department of health and wel-  
19 fare.

20 (13) "Foster care" means child care by a person not related to the child,  
21 in lieu of parental care, in a foster home.

22 (14) "Foster home" means a home ~~which~~ that accepts, for any period of  
23 time, with or without compensation, one (1) or more children who are not re-  
24 lated to the foster parent as members of the household for the purpose of pro-  
25 viding substitute parental care.

26 (15) "Group care" means foster care of a number of children for whom  
27 child care in a family setting is not available or appropriate, in a dormi-  
28 tory or cottage type setting, characterized by activities and discipline of  
29 a more regimented and less formal nature than found in a family setting.

30 (16) "Juvenile detention" is as defined in section 20-502(78), Idaho  
31 Code, of the juvenile corrections act.

32 (17) "Juvenile detention center" means a facility established pursuant  
33 to sections 20-517 and 20-518, Idaho Code.

34 (18) "Person" includes any individual, group of individuals, associa-  
35 tion, partnership, limited liability company or corporation.

36 (19) "Placement" means finding a suitable licensed foster home or suit-  
37 able adoptive home for a child and completing the arrangements for a child to  
38 be accepted into and adjusted to such home.

39 (20) "Relative" means a child's grandparent, great grandparent, aunt,  
40 great aunt, uncle, great uncle, brother-in-law, sister-in-law, first  
41 cousin, sibling and half-sibling.

42 (21) "Representative" means an employee of the state department of  
43 health and welfare.

44 (22) "Residential facility" means any facility where child care is pro-  
45 vided, as defined in this section, and ~~which~~ that provides day and night ac-  
46 commodation.

47 (23) "Residential school" means a residential facility for children  
48 ~~which~~ that:

1 (a) Provides a planned, scheduled, regular, academic or vocational  
2 school program for students in the elementary, middle or secondary  
3 grades as defined in section 33-1001, Idaho Code; and

4 (b) Provides services substantially comparable to those provided in  
5 nonresidential public schools where the primary purpose is the educa-  
6 tion and academic pursuits of the students; and

7 (c) Does not seek, receive or enroll students for treatment of such spe-  
8 cial needs as substance abuse, mental illness, emotional disturbance,  
9 developmental disability or intellectual disability; and

10 (d) Is not:

11 (i) A college or university; ~~or~~

12 (ii) A children's camp as defined in this section; or

13 (iii) A public or private day school in which the children leave  
14 the facility each day at the conclusion of the academic, voca-  
15 tional and school-supervised activities.

16 (24) "Transitional living" means living arrangements and aftercare  
17 services for children, or as continued care, to gain experience living on  
18 their own in a supportive and supervised environment prior to emancipation.

19 SECTION 4. An emergency existing therefor, which emergency is hereby  
20 declared to exist, this act shall be in full force and effect on and after  
21 July 1, 2022.