

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 453

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-511, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING THE DIVERSION PROCESS AND TO RE-
3 MOVE PROVISIONS REGARDING INFORMAL DISPOSITION OF A PETITION; AMENDING
4 SECTION 20-520, IDAHO CODE, TO PROVIDE FOR AN INFORMAL ADJUSTMENT FOR A
5 JUVENILE OFFENDER, TO PROVIDE CERTAIN REQUIREMENTS, AND TO MAKE TECHNICAL
6 CORRECTIONS; AMENDING SECTION 20-525A, IDAHO CODE, TO REMOVE A CODE
7 REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-532,
8 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMER-
9 GENCY AND PROVIDING AN EFFECTIVE DATE.
10

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

12 SECTION 1. That Section 20-511, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 20-511. ~~DIVERSION OR INFORMAL DISPOSITION OF THE PETITION.~~ (1) Prior
15 to the filing of any petition under this act, the prosecuting attorney may
16 use the diversion process and refer the case directly to the county probation
17 officer or a community-based diversion program for informal supervision and
18 counseling. ~~The prosecuting attorney may request a preliminary inquiry~~
19 ~~from the county probation officer, aided by use of a validated screening~~
20 ~~tool, to determine whether the interest of the public or the juvenile re-~~
21 ~~quires a formal court proceeding rather than diversion.~~ ~~If court action is~~
22 ~~not required, the prosecuting attorney may utilize the diversion process and~~
23 ~~refer the case directly to the county probation officer or a community-based~~
24 ~~diversion program for informal probation and counseling.~~ If the diversion
25 process is utilized pursuant to this subsection, then statements made by a
26 juvenile in a diversion proceeding shall be inadmissible at an adjudica-
27 tive proceeding on the underlying charge as substantive evidence of guilt.
28 If community service is going to be utilized pursuant to this subsection,
29 the prosecuting attorney shall collect a fee of sixty cents (60¢) per hour
30 for each hour of community service work the juvenile is going to perform
31 and remit the fee to the state insurance fund for the purpose of securing
32 worker's compensation insurance for the juvenile offender performing com-
33 munity service. However, if a county is self-insured and provides worker's
34 compensation insurance for persons performing community service pursuant to
35 the provisions of this chapter, then remittance to the state insurance fund
36 is not required.

37 (2) ~~After the petition has been filed and where the juvenile offender~~
38 ~~admits to the allegations contained in the petition, the court may decide to~~
39 ~~make an informal adjustment of the petition. Informal adjustment includes,~~
40 ~~but is not limited to:~~

- 41 ~~(a) Reprimand of the juvenile offender;~~
42 ~~(b) Informal supervision with the probation department;~~

1 ~~(c) Community service work;~~

2 ~~(d) Restitution to the victim;~~

3 ~~(e) Participation in a community-based diversion program.~~

4 ~~(3) The court shall dismiss the case if:~~

5 ~~(a) An informal adjustment has been granted and the juvenile offender~~
6 ~~has satisfied the terms or conditions of the informal adjustment;~~

7 ~~(b) The court is convinced by the showing made that there is no longer~~
8 ~~cause for continuing the period of informal adjustment; and~~

9 ~~(c) It is compatible with the public interest.~~

10 ~~(4) Information uniquely identifying the juvenile offender, the of-~~
11 ~~fense, and the type of program utilized shall be forwarded to the department.~~
12 ~~This information shall be maintained by the department in a statewide ju-~~
13 ~~venile offender information system. Access to the information shall be~~
14 ~~controlled by the department, subject to the provisions of section 74-113,~~
15 ~~Idaho Code.~~

16 ~~(5) Such informal adjustment of the petition shall be conducted in the~~
17 ~~manner prescribed by the Idaho juvenile rules. When an informal adjustment~~
18 ~~is made pursuant to this section and the juvenile offender is to perform~~
19 ~~community service work, the court shall assess the juvenile offender a fee~~
20 ~~of sixty cents (60¢) per hour for each hour of community service work the~~
21 ~~juvenile offender is to perform. This fee shall be remitted by the court to~~
22 ~~the state insurance fund for the purpose of securing worker's compensation~~
23 ~~insurance for the juvenile offender performing community service. However,~~
24 ~~if a county is self-insured and provides worker's compensation insurance~~
25 ~~for persons performing community service pursuant to the provisions of this~~
26 ~~chapter, then remittance to the state insurance fund is not required.~~

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

29 20-520. SENTENCING. (1) Upon the entry of an order finding the juve-
30 nile offender is within the purview of the act, the court shall then hold a
31 sentencing hearing in the manner prescribed by the Idaho juvenile rules to
32 determine the sentence that will promote accountability, competency devel-
33 opment and community protection. Prior to the entry of an order disposing
34 of the case, other than an order of discharge or dismissal, the court may
35 request and, if requested, shall receive a report containing the results of
36 an inquiry into the home environment, past history, competency development,
37 prevention or out-of-home placement services provided, and the social,
38 physical and mental condition of the juvenile offender. The court shall not
39 consider or review the report prior to the entry of an order of adjudication.
40 Upon presentation and consideration of the report by the court, the court may
41 proceed to sentence the juvenile offender as follows:

42 (a) Place the juvenile offender on an informal adjustment of the peti-
43 tion for a period not to exceed three (3) years from the date of the or-
44 der.

45 (i) Informal adjustments may be ordered for any case filed under
46 this chapter, upon such terms and conditions as the court may deem
47 just and appropriate under the circumstances, and not be limited
48 by the nature of the charge. Informal adjustments may include but
49 are not limited to:

- 1 1. Reprimand of the juvenile offender;
- 2 2. Supervision with the probation department;
- 3 3. Community service work; and
- 4 4. Restitution to the victim.

5 (ii) The court shall dismiss the case if:

- 6 1. An informal adjustment has been granted and the juvenile
- 7 offender has satisfied the terms or conditions of the infor-
- 8 mal adjustment;
- 9 2. The court is convinced by the showing made that there is
- 10 no longer cause for continuing the period of informal ad-
- 11 justment; and
- 12 3. It is compatible with the public interest.

13 (iii) If the court, after hearing and notice, finds that a juve-

14 venile has violated the informal adjustment, the court may impose

15 any sentence available to the court pursuant to this chapter.

16 (b) Place the juvenile offender on formal probation for a period not to

17 exceed three (3) years from the date of the order, except the court may

18 place a juvenile offender on formal probation for a period not to exceed

19 the juvenile offender's twenty-first birthday if the court finds that

20 the juvenile offender has committed a crime of a sexual nature. If a ju-

21 venile offender is committed to the Idaho department of juvenile cor-

22 rections pursuant to paragraph (st) 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 following

27 release of the juvenile offender from the department of juvenile cor-

28 rections in order to determine the conditions and term of such proba-

29 tion;

30 (~~bc~~) 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 that is prohibited by the federal, state, local, or municipal law

33 or ordinance by reason of minority only. The sentence shall not be ex-

34 ecuted unless the act, omission, or status is in violation of 18 U.S.C.

35 922(x), or the court finds that the juvenile offender has violated the

36 court's decree imposing the sentence as provided in this subsection.

37 If the court, after notice and hearing, finds that a juvenile of-

38 fender has violated the court's decree imposing the sentence under cir-

39 cumstances that bring the violation under the valid court order excep-

40 tion of the federal juvenile justice and delinquency prevention act of

41 1974, as amended, the court may commit the juvenile offender to deten-

42 tion for the period of detention previously imposed at sentencing;

43 (~~ed~~) Commit the juvenile offender to a period of detention, pursuant to

44 this act, for a period of time not to exceed ninety (90) days for each un-

45 lawful or criminal act the juvenile offender is found to have committed

46 or if the unlawful or criminal act would be a misdemeanor if committed by

47 an adult;

48 (~~de~~) If the juvenile offender has committed an unlawful or criminal act

49 that would be a felony if committed by an adult, the court may commit the

1 juvenile offender to detention for a period not to exceed one hundred
2 eighty (180) days for each unlawful or criminal act;

3 (~~ef~~) Whenever a court commits a juvenile offender to a period of deten-
4 tion, the juvenile detention center shall notify the school district
5 where the detention center is located. No juvenile offender who is
6 found to come within the purview of the act for the commission of a sta-
7 tus offense shall be sentenced to detention in a jail facility;

8 (~~fg~~) Commit the juvenile offender to detention and suspend the sentence
9 on specific probationary conditions;

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

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

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

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

44 (~~kl~~) The court may make any other reasonable order that is in the best
45 interest of the juvenile offender or is required for the protection of
46 the public, except that no person under the age of eighteen (18) years
47 may be committed to jail, prison or a secure facility that does not meet
48 the standards set forth in section 20-518, Idaho Code, unless jurisdic-
49 tion over the individual is in the process of being waived or has been
50 waived pursuant to section 20-508 or 20-509, Idaho Code. The court may

1 combine several of the above-listed modes of disposition where they are
2 compatible;

3 (~~l~~m) An order under the provisions of this section for probation or
4 placement of a juvenile offender with an individual or an agency may
5 provide a schedule for review of the case by the court;

6 (~~m~~n) Order the proceeding expanded or altered to include consideration
7 of the cause pursuant to chapter 16, title 16, Idaho Code;

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

14 (~~o~~p) Order such other terms, conditions, care or treatment as appear to
15 the court will best serve the interests of the juvenile offender and the
16 community;

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

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

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

48 (~~s~~t) Commit the juvenile offender to the legal custody of the depart-
49 ment of juvenile corrections for an indeterminate period of time, not to
50 exceed the juvenile offender's nineteenth birthday, unless the custody

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

11 (u) Notwithstanding any other provision of this section, a court may
12 not commit a juvenile offender under the age of ten (10) years to a pe-
13 riod of detention or to the custody of the department of juvenile cor-
14 rections for placement in secure confinement.

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

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

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

37 (5) Any parent, legal guardian or custodian violating any order of the
38 court entered against the person under the provisions of this chapter shall
39 be subject to contempt proceedings under the provisions of chapter 6, title
40 7, Idaho Code.

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

45 SECTION 3. That Section 20-525A, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY --
48 SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in
49 a case under this act and found to be within the purview of the act for having

1 committed a felony offense or having been committed to the department of ju-
2 venile corrections may, after the expiration of five (5) years from the date
3 of termination of the continuing jurisdiction of the court, or, in case the
4 juvenile offender was committed to the juvenile correctional center, five
5 (5) years from the date of his release from the juvenile correctional center,
6 or after reaching age eighteen (18) years, whichever occurs last, petition
7 the court for the expungement of his record. Upon the filing of the petition,
8 the court shall set a date for a hearing and shall notify the prosecuting
9 attorney of the pendency of the petition and of the date of the hearing. The
10 prosecuting attorney and any other person who may have relevant information
11 about the petitioner may testify at the hearing.

12 (2) Any person who has been adjudicated in a case under this act and
13 found to be within the purview of the act for having committed misdemeanor or
14 status offenses only and not having been committed to the department of ju-
15 venile corrections may, after the expiration of one (1) year from the date
16 of termination of the continuing jurisdiction of the court or after reaching
17 age eighteen (18) years, whichever occurs later, petition the court for the
18 expungement of his record. Upon the filing of the petition, the court shall
19 set a date for a hearing and shall notify the prosecuting attorney of the pen-
20 dency of the petition and the date of the hearing. The prosecuting attorney
21 and any other person who may have relevant information about the petitioner
22 may testify at the hearing.

23 (3) In any case where the prosecuting attorney has elected to utilize
24 the diversion process or the court orders an informal adjustment ~~pursuant to~~
25 ~~section 20-511, Idaho Code~~, the person may, after the expiration of one (1)
26 year from the date of termination of the continuing jurisdiction of the court
27 or after reaching age eighteen (18) years, whichever occurs later, petition
28 the court for the expungement of his record. Upon the filing of the peti-
29 tion, the court shall set a date for a hearing and shall notify the prosecut-
30 ing attorney of the pendency of the petition and the date of the hearing. The
31 prosecuting attorney and any other person who may have relevant information
32 about the petitioner may testify at the hearing.

33 (4) The court may not expunge a conviction for any of the following
34 crimes from a juvenile offender's record:

- 35 (a) Administering poison with intent to kill (18-4014, Idaho Code);
- 36 (b) Aggravated battery (18-907, Idaho Code);
- 37 (c) Armed robbery (chapter 65, title 18, Idaho Code);
- 38 (d) Arson (chapter 8, title 18, Idaho Code);
- 39 (e) Assault with intent to commit a serious felony (18-909, Idaho
40 Code);
- 41 (f) Assault with intent to murder (18-4015, Idaho Code);
- 42 (g) Assault or battery upon certain personnel, felony (18-915, Idaho
43 Code);
- 44 (h) Forcible sexual penetration by use of a foreign object (18-6608,
45 Idaho Code);
- 46 (i) Infamous crime against nature, committed by force or violence (18-
47 6605, Idaho Code);
- 48 (j) Injury to child, felony (18-1501, Idaho Code);
- 49 (k) Kidnapping (18-4501, Idaho Code);
- 50 (l) Murder of any degree (18-4001 and 18-4003, Idaho Code);

- 1 (m) Rape, excluding statutory rape (18-6101, Idaho Code);
2 (n) Ritualized abuse of a child (18-1506A, Idaho Code);
3 (o) Sexual exploitation of a child (18-1507, Idaho Code);
4 (p) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
5 (q) Voluntary manslaughter (18-4006 1., Idaho Code);
6 (r) A violation of the provisions of section 37-2732(a) (1) (A), (B) or
7 (C), Idaho Code, when the violation occurred on or within one thousand
8 (1,000) feet of the property of any public or private primary or sec-
9 ondary school, or in those portions of any building, park, stadium or
10 other structure or grounds which were, at the time of the violation, be-
11 ing used for an activity sponsored by or through such a school;
12 (s) A violation of the provisions of section 37-2732B, Idaho Code, re-
13 lated to drug trafficking or manufacturing of illegal drugs.

14 (5) If the court finds after hearing that the petitioner has not been
15 adjudicated as a juvenile offender for any of the crimes identified in sub-
16 section (4) of this section, and has not been convicted of a felony, or of a
17 misdemeanor wherein violence toward another person was attempted or commit-
18 ted since the termination of the court's jurisdiction or his release from
19 the juvenile correctional center, and that no proceeding involving such
20 felony or misdemeanor is pending or being instituted against him, and if the
21 court further finds to its satisfaction that the petitioner has been held
22 accountable, is developing life skills necessary to become a contributing
23 member of the community and that the expungement of the petitioner's record
24 will not compromise public safety, it shall order all records in the peti-
25 tioner's case in the custody of the court and all such records, including law
26 enforcement investigatory reports and fingerprint records, in the custody
27 of any other agency or official sealed; and shall further order all refer-
28 ences to said adjudication, diversion or informal adjustment removed from
29 all indices and from all other records available to the public. However, a
30 special index of the expungement proceedings and records shall be kept by the
31 court ordering expungement, which index shall not be available to the public
32 and shall be revealed only upon order of a court of competent jurisdiction.
33 Copies of the order shall be sent to each agency or official named in the
34 order. Upon the entry of the order, the proceedings in the petitioner's case
35 shall be deemed never to have occurred and the petitioner may properly reply
36 accordingly upon any inquiry in the matter. Inspection of the records may
37 thereafter be permitted only by the court upon petition by the person who is
38 the subject of the records, or by any other court of competent jurisdiction,
39 and only to persons named in the petition.

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

42 20-532. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. A juvenile of-
43 fender committed to a secure facility shall remain until the juvenile of-
44 fender reaches nineteen (19) years of age, is retained for extended custody
45 pursuant to section 20-520(1) (~~st~~), Idaho Code, or is released or discharged.
46 A juvenile offender committed to a secure facility shall appear before the
47 department within ninety (90) days after commitment for review of treatment
48 plans.

1 SECTION 5. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2022.