
Idaho Juvenile Corrections Act and Rules



July 2020

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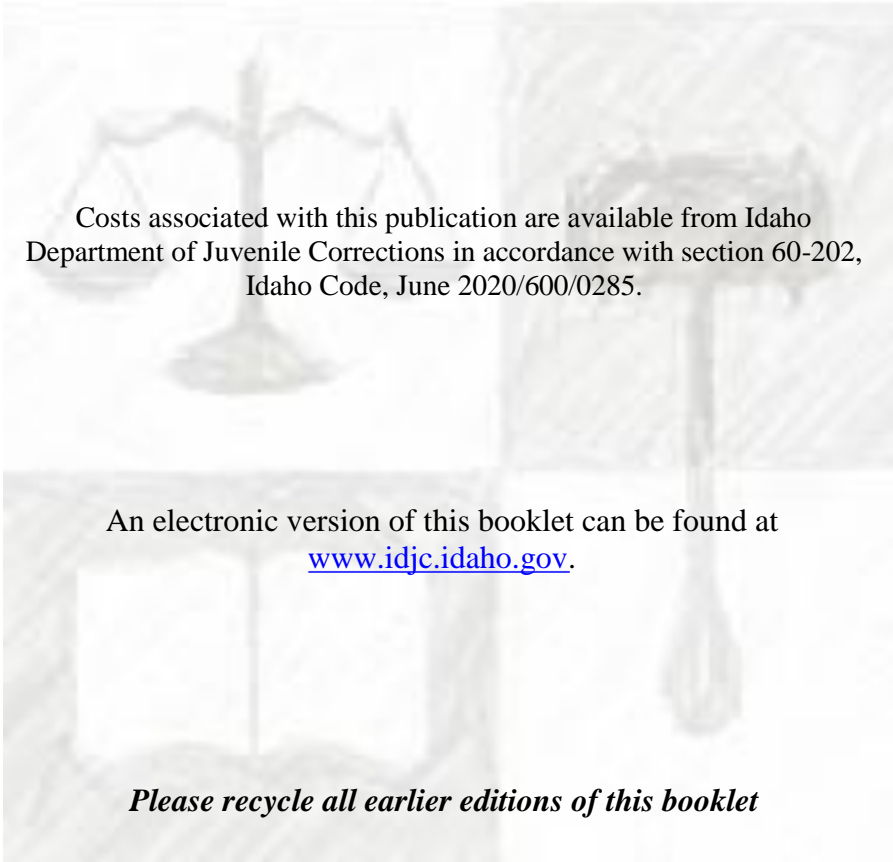
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Idaho Supreme Court Priority of Payments for Cases under the Juvenile
Corrections Act



Costs associated with this publication are available from Idaho
Department of Juvenile Corrections in accordance with section 60-202,
Idaho Code, June 2020/600/0285.

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JUVENILE CORRECTIONS ACT
Title 20, Chapter 5

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Idaho Supreme Court 2019 Priority of Payments to be Ordered at Sentencing in Juvenile Corrections Act Cases

The Court, being fully informed, hereby adopts the below Priority of Payments schedule for the guidance of courts and district court clerks in the distribution of payments received from juvenile defendants or their parent(s), guardian(s), or custodian(s), for the payment of fines, fees, costs, reimbursements, and restitution. Such payments shall be distributed in the order set forth in the Priority of Payments.

Priority of Payments

1. Victim restitution (I.C. § 20-520(3))
2. Detention/Probation Training Academy fee (I.C. § 20-520(1)(p))
3. Juvenile drug court/mental health court fee I.C. 31-3201E)
4. County juvenile probation supervision fee I.C. 20-520(1)(r))
5. Community service fee (I.C. § 20-520(1)(q))
6. Probationary contract violation assessment (I.C. § 20-522)
7. Detention costs (I.C. § 20-524(2))
8. Costs of support and treatment of juvenile (I.C. § 20-524(1))
9. Reimbursement of public defender costs (I.C. 20-514(7))

TITLE 20
State Prison and County Jails
CHAPTER 5
Juvenile Corrections Act

Juvenile Corrections Act created in 1995, Section 1, Chapter 44, Idaho Session Laws as amended in 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020.

20-501. LEGISLATIVE INTENT. It is the policy of the state of Idaho that the juvenile corrections system will be based on the following principles: accountability; community protection; and competency development. Where a juvenile has been found to be within the purview of the juvenile corrections act, the court shall impose a sentence that will protect the community, hold the juvenile offender accountable for his actions, and assist the juvenile offender in developing skills to become a contributing member of a diverse community. It is the further policy of the state of Idaho that the parents or other legal guardians of the juvenile offender participate in the accomplishment of these goals through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile offender's behavior. It is the further intent of the legislature that the parents of the juvenile offender be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile offender's delinquent acts. In enacting this legislation, the legislature finds that the juvenile corrections system should encompass the following aspects: day treatment, community programs, observation and assessment programs, probation services, secure facilities, after-care and assistance to counties for juvenile offenders not committed to the custody of the department of juvenile corrections.

The following is a brief description of what the legislature intends to become the components of Idaho's juvenile corrections system:

Probation. Probation officers would have twenty-four (24) hour on call responsibility for juvenile offenders and would monitor their activities on a continual basis. Probation officers would be responsible for assisting juvenile offenders and their families in accessing counseling or treatment resources, close supervision of juvenile offenders' activities, supervision of restitution and coordination of other services provided to juvenile offenders. Juvenile offenders ordered into the custody of the department

of juvenile corrections would be monitored by a county probation officer.

Day treatment. Day treatment programs would be time limited nonresidential treatment and educational programs. Included in these programs would be trackers who would provide intensive supervision of juvenile offenders through daily contact and by counseling juvenile offenders regarding employment, education, courts, family, and life skills. Nonresidential alcohol and drug programs would provide outpatient assessment and counseling for juvenile offenders with substance abuse problems.

Community programs. It is intended that community programs would exist throughout the state to provide twenty-four (24) hour residential supervision and treatment options to juvenile offenders in close proximity to their families and their community. It is intended that these programs would strengthen the juvenile offender's relationship with family, engender a commitment to school and employment, promote the development of competency and life skills and help juvenile offenders generalize appropriate behavior into their environment.

Observation and assessment. Regional observation and assessment centers would be provided, either directly or on a contract basis, to conduct observation and assessment of the juvenile offender in a short-term residential experience. It is intended that these programs would maintain standardized home and daily routines with intensive daily programming.

Secure facilities. Secure facilities would provide secure confinement, discipline, education and treatment of the most seriously delinquent juvenile offenders. Programs at the secure facilities would be designed to help juvenile offenders recognize accountability for delinquent behavior by confronting and eliminating delinquent norms, criminal thinking and antisocial behavior and making restitution to victims through community service or other restitution programs.

It is the further intent of the legislature that the primary purpose of this act is to provide a continuum of programs which emphasize the juvenile offender's accountability for his actions while assisting him in the development of skills necessary to function effectively and positively in the community in a manner consistent with public safety. These services and programs will individualize treatment and control of the juvenile offender for the benefit of the juvenile offender and the protection of society. It is legislative intent that the department of juvenile corrections be operated within the framework of the following principles to accomplish this mission:

(1) Provide humane, disciplined confinement to a juvenile offender who presents a danger to the community.

(2) Strengthen opportunities for the juvenile offender's

development of competency and life skills by expanding the juvenile offender's access to applicable programs and community resources.

(3) Hold juvenile offenders accountable for their delinquent behavior through such means as victim restitution, community service programs and the sharing of correctional costs.

(4) Invoke the participation of the juvenile offender's parent or legal guardian in assisting the juvenile offender to recognize and accept responsibility for his delinquent or other antisocial behavior and hold the parent accountable, where appropriate, through the payment of detention costs and restitution to victims and through attendance at programs for the development of positive parenting skills designed to promote a functional relationship between the juvenile offender and his family.

(5) Develop efficient and effective juvenile correctional programs within the framework of professional correctional standards, legislative intent and available resources.

(6) Provide for a diversity of innovative and effective programs through research on delinquent behavior and the continuous evaluation of correctional programs.

(7) Assist counties in developing meaningful programs for juvenile offenders who have come into the juvenile corrections system but who have not been committed to the custody of the department of juvenile corrections.

(8) Provide programs to increase public awareness of the mission of the juvenile corrections system and encourage public participation in developing an effective juvenile corrections system designed to aid in reducing juvenile crime in this state.

(9) Develop and maintain a statewide juvenile offender information system.

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

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

(2) "Commit" means to transfer legal custody.

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

(4) "Court" means any district court within the state of Idaho, or magistrate's division thereof.

(5) “Department” means the state department of juvenile corrections.

(6) “Detention” means the temporary placement of juvenile offenders who require secure custody for their own or the community’s protection in physically restricting facilities.

(7) “Director” means the director of the department of juvenile corrections.

(8) “Diversion” means the utilization of local community resources, churches, counseling for the juvenile offender and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.

(9) “Judge” means a district judge or a magistrate.

(10) “Juvenile” means a person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any alleged act, omission or status.

(11) “Juvenile correctional center” means any state-operated residential facility or facility operated pursuant to a contract with the state that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

(12) “Juvenile detention center” means a secure facility established pursuant to sections 20-517 and 20-518, Idaho Code, and in compliance with IDAPA 05.01.02.

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

(14) “Legal custody” means the relationship created by the court’s decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

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

(16) “Observation and assessment program” means any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment.

(17) “Secure facility” means any architecturally secure residential facility that provides twenty-four (24) hour supervision and confinement

for juvenile offenders committed to the custody of the department.

(18) "Staff secure facility" means a nonarchitecturally secure residential facility with awake staff twenty-four (24) hours a day, seven (7) days a week for intensive supervision of juvenile offenders.

(19) "Work program" means a public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

20-503. DEPARTMENT OF JUVENILE CORRECTIONS CREATED -- APPOINTMENT OF DIRECTOR -- POWERS AND DUTIES OF DEPARTMENT. (1) The department of juvenile corrections is hereby created. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall be under the control and supervision of a director, who shall be appointed by the governor, with the advice and consent of the senate. The director shall exercise all of the powers and duties necessary to carry out the proper administration of the department and may delegate duties to employees and officers of the department. The director shall have the authority to employ an attorney or attorneys to provide legal services to the department and such managers, assistants, clerical staff and other employees necessary to the proper functioning and administration of the department.

(3) The department of juvenile corrections shall be composed of such administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the department. The director shall appoint an administrator for each administrative unit within the department.

(4) The director shall have full power and authority to do all things necessary to establish and provide for the administration and operation of the department of juvenile corrections and to accomplish an orderly transition to the department of juvenile corrections and the counties of the duties and responsibilities for juvenile offenders and the juvenile justice system being performed by the department of health and welfare. It is intended that the director and staff of the department of health and welfare work cooperatively with the director and staff of the department of juvenile corrections and the counties in this effort, while continuing with their duties to juvenile offenders in the custody of the department of health and welfare until the official transfer of such duties to the department of juvenile corrections and the counties on October 1, 1995.

20-504. DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS. (1) The department shall have jurisdiction over all juvenile offenders committed to it pursuant to chapter 5, title 20, Idaho Code.

(2) The department shall have legal custody over all juvenile offenders committed to it by the courts of this state for confinement. The department shall not have legal guardianship of any juvenile offender.

(3) The department is responsible for all juvenile offenders committed to it by the courts of this state for confinement. The department shall also establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.

(4) The department shall establish and administer all secure residential facilities including all state juvenile correctional centers.

(5) The department shall make all decisions regarding placement of juvenile offenders committed to it in the most appropriate program for supervision and treatment.

(6) The department shall establish an observation and assessment process for juvenile offenders committed to it by a court.

(7) The department shall establish liaison services with the counties or within the department's regions.

(8) The department may establish and operate work programs designed to employ juvenile offenders committed to it in public service work projects for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

(9) The department is hereby authorized and may place juvenile offenders committed to it pursuant to this chapter in a community-based or private program; provided, that the person, agency or association operating the facility or program has been approved and has otherwise complied with all applicable state and local laws.

(10) The department shall establish minimum standards for the operation of all private residential and nonresidential facilities and programs that provide services to juvenile offenders committed to the department. The standards shall be no more stringent than standards imposed for facilities operated by the department or for detention facilities operated by counties.

(11) The department shall provide technical assistance to counties establishing research-based programs for juvenile offenders who either have been found to come under the purview of this chapter or who have had their case informally diverted pursuant to section 20-511, Idaho Code, and who have not been committed to the legal custody of the department.

(12) The department shall have authority to adopt such administrative rules pursuant to the procedures provided in chapter 52, title

67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of this act.

(13) Subject to any competitive bidding requirements otherwise provided by law, the department shall have authority to enter into contracts with a private association or organization or other public agency or organization for the inspection and licensure of detention facilities.

(14) Subject to any competitive bidding requirements otherwise provided by law, the department shall have authority to enter into contracts with private providers or local governmental agencies for the confinement or other permanent or temporary placement of juvenile offenders committed to its custody.

(15) The department shall have authority to apply for, receive and expend federal funds, subject to appropriation by the legislature. The department shall have authority to establish guidelines for and administer the distribution of state juvenile corrections act funds to counties for the employment and training of county probation officers, the establishment of secure and nonsecure residential or nonresidential facilities and programs for juvenile offenders. The department may require that a county provide matching funds as a condition of receiving juvenile corrections act funds. The department, by rule, in cooperation with the courts and the counties, shall establish uniform standards for county juvenile probation services, as well as qualifications for and standards for the training of juvenile probation officers.

20-504A. STATE JUVENILE CORRECTIONAL CENTERS -- PURPOSES -- POWERS AND DUTIES OF THE DEPARTMENT AND THE DIRECTOR. (1) The purposes of a juvenile correctional center shall be:

- (a) The care, control and competency development of adjudicated juvenile offenders meeting standards for admission as adopted by the Idaho supreme court;
- (b) The provision pursuant to agreement with the counties of detention services for juvenile offenders subject to administrative or court order;
- (c) The provision of observation and assessment services for juvenile offenders committed to the department of juvenile corrections; and
- (d) To accept for placement those individuals sentenced to a state juvenile correctional center by a district court, or pursuant to agreement with the board of correction, subsequent to waiver of juvenile court jurisdiction.

(2) The department shall administer and provide general oversight of all state juvenile correctional centers and any other secure or nonsecure facilities holding juvenile offenders committed to it as required by the juvenile corrections act.

(3) The department shall assure that the educational programs of state juvenile correctional centers are in compliance with educational standards that are approved by the Idaho state board of education or an accrediting association recognized by the Idaho state board of education.

(4) The department shall have the power to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, for the administration and operation of state juvenile correctional centers.

(5) The director shall have the power:

(a) To employ, fix the salary and prescribe the duties of a superintendent for each juvenile correctional center. The superintendent shall be a nonclassified employee and shall serve at the pleasure of the director. With the advice of the director, the superintendent may appoint and prescribe the duties of assistants, instructors, specialists and other employees required for the operation of the center;

(b) To remove any employee of a juvenile correctional center for cause or as allowed by chapter 53, title 67, Idaho Code;

(c) To ensure that all teachers, except specialists, hold teaching certificates issued under the authority of the state board of education which are valid for the grades and subjects taught. All specialists shall hold diplomas from an accredited school of their specialty;

(d) To have, at all times, general supervision and control of all property, real and personal, appertaining to the center, and to insure the same; and

(e) To expend tax moneys appropriated, or otherwise placed to the credit of the center for maintenance and operation and to account for the same as prescribed by law.

20-505. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any juvenile and over any adult who was a juvenile at the time of any act, omission or status, in the county in which the juvenile resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

(1) Where the act, omission or status occurs in the state of Idaho and is prohibited by federal, state, local or municipal law or ordinance by reason of minority only;

(2) Where the act or omission occurs in the state of Idaho and is

a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult;

(3) Concerning any juvenile where the juvenile comes under the purview of the interstate compact for juveniles as set forth in chapter 19, title 16, Idaho Code;

(4) This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of eighteen (18) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter, provided that a juvenile taken into custody pursuant to section 20-516(1)(c), Idaho Code, for an alcohol age infraction under section 18-1502(e), Idaho Code, shall be treated within the provisions of this chapter;

(5) This chapter shall not apply to the juvenile offenders who are transferred for criminal prosecution as an adult, as provided in this chapter;

(6) This chapter shall not apply to juvenile violators of traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt laws; except that a juvenile violator under the age of eighteen (18) years at the time of such violation may, at the discretion of the court, be treated under the provisions of this chapter;

(7) This chapter shall not apply to juvenile sex offenders who violate the provisions of section 18-8414, Idaho Code.

20-506. TRANSFER FROM OTHER COURTS. If during the pendency of a criminal or quasi-criminal charge against any juvenile in any other court, it shall be ascertained that the juvenile was under the age of eighteen (18) years at the time of committing the alleged offense, except where such juvenile has left the state, or where said charge is that such juvenile is a juvenile traffic, beer, wine or other alcohol or tobacco violator, or is within the purview of section 20-508(1)(a) or (1)(b), Idaho Code, it shall be the duty of such court forthwith to transfer the case, together with all the papers, documents and testimony connected therewith, to the court having jurisdiction over the juvenile with respect to the offense charged. The court making such transfer shall order the juvenile to be taken forthwith to the court to which the transfer is being made or place of detention designated by the court or shall release the juvenile to the custody of some suitable person to be brought before the court at a time designated. The court to which the case is transferred shall then proceed as provided in this act.

20-507. RETENTION OF JURISDICTION. Jurisdiction obtained by the court in the case of a juvenile offender shall be retained by it for the purposes of this act until he becomes twenty-one (21) years of age, unless terminated prior thereto. If a juvenile offender under the jurisdiction of the

court and after attaining eighteen (18) years of age, is charged with a felony, he shall be treated as any other adult offender. If a person eighteen (18) years of age or older already under court jurisdiction is convicted of a felony, that conviction shall terminate the jurisdiction of the court, provided however, nothing herein contained shall prohibit any court from proceeding as provided in section 20-508(2), Idaho Code.

20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the juvenile corrections act over the juvenile and order that the juvenile be held for adult criminal proceedings when:

(a) A juvenile is alleged to have committed any of the crimes enumerated in section 20-509, Idaho Code; or

(b) A juvenile is alleged to have committed an act other than those enumerated in section 20-509, Idaho Code, after the child became fourteen (14) years of age which would be a crime if committed by an adult; or

(c) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for people with intellectual disabilities or mental illness, is not treatable in any available institution or facility available to the state designed for the care and treatment of juveniles, or that the safety of the community requires the adult continue under restraint; or

(d) An adult already under the jurisdiction of the court is alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the juvenile corrections act and prosecute a juvenile under the criminal law may be made by the prosecuting attorney, the juvenile, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the juvenile corrections act, the court shall enter an order setting the motion for hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by county probation, or such other agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the juvenile, and the parents, guardian or custodian of the juvenile, and the

prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by the parties, and such notice shall inform the juvenile and the parents, guardian or custodian of the juvenile of their right to court appointed counsel. Service of the notice shall be made in the manner prescribed for service of a summons under section 20-512, Idaho Code.

(5) The hearing upon the motion to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a juvenile corrections act proceeding. However, in the event the court determines, as a result of the hearing, that juvenile corrections act jurisdiction should be waived and the juvenile should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving juvenile corrections act jurisdiction and binding the juvenile over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive juvenile corrections act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said juvenile has come within the purview of the juvenile corrections act, and all subsequent proceedings after the decree finding the juvenile within the purview of the act must be under and pursuant to the act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

- (a) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;
- (b) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;
- (c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;
- (d) The maturity of the juvenile as determined by considerations of his home, environment, emotional attitude, and pattern of living;
- (e) The juvenile's record and previous history of contacts with the juvenile corrections system;
- (f) The likelihood that the juvenile will develop competency and life skills to become a contributing member of the community by use of facilities and resources available to the court;

(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the juvenile is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one (1) or a combination of the factors set forth within this section, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a juvenile or adult held for criminal proceedings, the court in a county other than the juvenile's or adult's home county, after entering a decree that the juvenile or adult is within the purview of this chapter, may certify the case for sentencing to the court of the county in which the juvenile offender or adult resides upon being notified that the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the juvenile offender or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

(10) Upon conviction of a juvenile offender held for adult criminal proceedings under this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

- (a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or
- (b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence and retain jurisdiction pursuant to section 19-2601A, Idaho Code, and commit the defendant to the dual custody of the department of juvenile corrections and the state board of correction.

20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any juvenile, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes or any person under age fourteen (14) years who is alleged to have committed any of the following crimes and, pursuant to section 20-508, Idaho Code, has been ordered by the court to be held for adult criminal proceedings:

- (a) Murder of any degree or attempted murder;
- (b) Robbery;
- (c) Rape as defined in section 18-6101, Idaho Code;
- (d) Forcible sexual penetration by the use of a foreign object;
- (e) Infamous crimes against nature, committed by force or violence;
- (f) Mayhem;

(g) Assault or battery with the intent to commit any of the above serious felonies;

(h) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

(i) Arson in the first degree and aggravated arson; shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one (1) or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any juvenile proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that juvenile were an adult defendant.

(2) Once a juvenile has been formally charged or indicted pursuant to this section or has been transferred for criminal prosecution as an adult pursuant to the waiver provisions of section 20-508, Idaho Code, or this section, the juvenile shall be held in a county jail or other adult prison facility unless the court, after finding good cause, orders otherwise.

(3) Except as otherwise allowed by subsection (4) of this section, once a juvenile offender has been found to have committed the offense for which the juvenile offender was charged, indicted or transferred pursuant to this section or section 20-508, Idaho Code, or has been found guilty or pled guilty to a lesser offense or amended charge growing out of or included within the original charge, whether or not such lesser offense or amended charge is included within the acts enumerated in subsection (1) of this section, the juvenile offender shall thereafter be handled in every respect as an adult. For any subsequent violation of Idaho law, the juvenile offender shall be handled in every respect as an adult.

(4) Upon the conviction of a juvenile offender pursuant to this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence

pursuant to section 19-2601A, Idaho Code, and commit the defendant to the dual custody of the department of juvenile corrections and the state board of correction.

20-510. INFORMATION -- INVESTIGATION -- PETITION. Any peace officer, any prosecuting attorney, or any authorized representative of the board of trustees of a school district of this state, having knowledge of a juvenile who is within the purview of this act may file a petition with the court in such form as may be required by the court, except a peace officer may also issue a citation for a curfew violation pursuant to section 20-549, Idaho Code. Said individual or agency shall be responsible for providing the evidence to support the allegations made in the petition, provided this in no way shall relieve peace officers from enforcement of the law as set forth in section 31-2227, Idaho Code. The court may make a preliminary inquiry to determine whether the interests of the public or of the juvenile require that further action be taken. Such inquiry may be made through the county probation officer or such other agent or investigation officer designated by the court. Thereupon, the court may make such informal adjustment as is practicable, or dismiss the petition, or set the matter for hearing. If an informal adjustment is made, it shall provide for full or partial restitution in the manner and form prescribed by the court when the offense involves loss or damage of property of another. A probation officer shall not file a petition unless the juvenile has previously been under the jurisdiction of the court. The petition and all subsequent court documents shall be entitled "In the interest of ..., a juvenile under eighteen (18) years of age." The petition may be made upon information and belief but it shall be made under oath. It shall set forth plainly: (1) the facts which bring the juvenile within the purview of this act; (2) the name, age, and residence of the juvenile; (3) the names and residences of his parents and spouse, if any; (4) the name and residence of his legal guardian, if there be one, or the person or persons having custody or control of the juvenile, or of the nearest known relative if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner the petition shall so state.

Service of a petition upon the parents, legal guardian or person or persons having custody or control of the juvenile shall subject the parents, legal guardian or person or persons having custody or control of the juvenile to the provisions of this chapter. The petition shall inform the parents, legal guardian or other person legally obligated to care for and support the juvenile that service of the petition upon them shall make them subject to the provisions of this chapter.

20-511. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. (1) Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the county probation officer to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the county probation officer or a community-based diversion program for informal probation and counseling. If the diversion process is utilized pursuant to this subsection, then statements made by a juvenile in a diversion proceeding shall be inadmissible at an adjudicative proceeding on the underlying charge as substantive evidence of guilt. If community service is going to be utilized pursuant to this subsection, the prosecuting attorney shall collect a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is going to perform and remit the fee to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

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

- (a) Reprimand of the juvenile offender;
 - (b) Informal supervision with the probation department;
 - (c) Community service work;
 - (d) Restitution to the victim;
 - (e) Participation in a community-based diversion program.
- (3) The court shall dismiss the case if:

- (a) An informal adjustment has been granted and the juvenile offender has satisfied the terms or conditions of the informal adjustment;
- (b) The court is convinced by the showing made that there is no longer cause for continuing the period of informal adjustment; and
- (c) It is compatible with the public interest.

(4) Information uniquely identifying the juvenile offender, the offense, and the type of program utilized shall be forwarded to the department. This information shall be maintained by the department in a statewide juvenile offender information system. Access to the information shall be controlled by the department, subject to the provisions of section 74-113, Idaho Code.

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

20-511A. MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT. (1) A judge of any court shall order the department of health and welfare to submit appropriate mental health assessments and a plan of treatment for the court's approval if at any stage of a proceeding under this chapter or the child protective act, chapter 16, title 16, Idaho Code, a judge has reason to believe, based upon the record and proceedings of the court or upon an affidavit of a party, state or county agency or any person having physical custody of the juvenile or juvenile offender, that he or she:

(a) Is suffering a substantial increase or persistence of a serious emotional disturbance as defined in section 16-2403, Idaho Code, which impairs his or her ability to comply with the orders and directives of the court, or which presents a risk to his or her safety or well-being or the safety of others; and

(b) Such condition has not been adequately addressed with supportive services and/or corrective measures previously provided to the juvenile, or the juvenile's needs with respect to the serious emotional disturbance are not being met or have not been met.

(2) The court may convene a screening team consisting of representatives from the department of health and welfare, county probation, local school officials, teen early intervention specialists as provided for under section 16-2404A, Idaho Code, the department of juvenile corrections and/or other agencies or persons designated by the court to review the plan of treatment and provide written recommendations to the court. Parents and guardians of the juvenile or juvenile offender, if available, shall be included in the screening team and consulted with regard to the plan of treatment.

(3) If the court, after receiving the mental health assessment and plan of treatment submitted by the department of health and welfare and

any recommendations from the screening team, determines that additional information is necessary to determine whether the conditions set forth in subsections (1)(a) and (1)(b) of this section are present, or to determine an appropriate plan of treatment for the juvenile or juvenile offender, the court may order an evaluation and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist, with the expenses of such evaluation and/or recommendations to be borne by the department of health and welfare.

(4) If the court concludes that the conditions set forth in subsections (1)(a) and (1)(b) of this section are present, the plan of treatment, as approved by the court, shall be entered into the record as an order of the court. The department of health and welfare shall provide mental health treatment as designated by the approved plan of treatment. If in-patient or residential treatment is required as part of the plan of treatment, the court shall hold a hearing on whether to order such treatment unless the hearing is waived by the juvenile or juvenile offender and his or her parents or guardians. The court may order parents, legal guardians or custodians to adhere to the treatment designated in the plan of treatment. Representatives from the department of health and welfare, county probation, local school officials, teen early intervention specialists as provided for under section 16-2404A, Idaho Code, the department of juvenile corrections and/or other agencies or persons designated by the court shall attend case review hearings as scheduled by the court.

(5) All costs associated with assessment and treatment shall be the responsibility of the parents of the juvenile or juvenile offender according to their ability to pay based upon the sliding fee scale established pursuant to section 16-2433, Idaho Code. The financial obligation of the family shall be determined after consideration of all available payment and funding sources including title XIX of the social security act, as amended, all available third party sources, and parent resources according to any order for child support under chapter 10, title 32, Idaho Code. Services shall not be conditioned upon transfer of custody or parental rights.

20-512. SUMMONS -- NOTICE -- CUSTODY OF JUVENILE. After a petition shall have been filed and after such further investigation as the court may direct, and if the matter is set for hearing, the court shall issue a summons requiring the person or persons who have custody or control of the juvenile to appear personally and bring the juvenile before the court at a time and place stated; provided, however, if hearing is to be held, it shall be held not later than fifteen (15) days after the summons is issued unless

the court should order on being shown cause that the time be extended. If the person so summoned shall be other than a parent or guardian of the juvenile, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed for the hearing. Notice shall be given as hereinafter provided. A subpoena may be issued requiring the appearance of any other person whose presence is required by the juvenile, his guardian or any other person who, in the opinion of the judge, is necessary. If it appears the juvenile is in such condition or surroundings that his welfare requires that he be taken into custody immediately, the judge, as provided in section 20-516, Idaho Code, may order by endorsement upon the summons that the officer serving the same shall at once take the juvenile into custody and bring him before the court.

20-513. SERVICE OF SUMMONS -- TRAVEL EXPENSES. Service of summons shall be made personally by delivery of an attested copy thereof to the person summoned; provided that if the judge is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to the last known address, or by publication thereof, or both. It shall be sufficient to confer jurisdiction if service is effected at least forty-eight (48) hours before the time fixed in the summons for the hearing. When publication is used the summons shall be published in two (2) consecutive issues of a weekly newspaper printed and published in the county; such newspaper to be designated by the court in the order for publication of the summons, and such publication shall have the same force and effect as though such person had been personally served with said summons. Service of summons, process or notice required by this act shall be made by the sheriff or a probation officer upon the request of the court and a return must be made by the sheriff on the summons showing that such service has been made. The judge may authorize payment of any necessary travel expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the purview of this act, and such expenses when approved by the judge shall be a charge upon the county, except that not more than five (5) witnesses on behalf of any parent or guardian may be required to attend such hearing at the expense of the county. The court may summon the appearance of any person whose presence is deemed necessary as a witness or possible resource for the care and treatment of the juvenile, including persons whom the juvenile or the family wishes to have present.

20-514. REPRESENTATION AT ALL STAGES OF PROCEEDINGS -- APPOINTMENT OF COUNSEL -- WAIVER -- PAYMENT OF COST OF LEGAL SERVICES. (1) A juvenile who is being detained by a law enforcement officer or who is under formal charge of having committed, or who has been adjudicated for commission of, an act, omission or status that brings him under the purview of this act, is entitled:

(a) To be represented by an attorney to the same extent as an adult having his own counsel is so entitled pursuant to section 19-852, Idaho Code; and

(b) To be provided with the necessary services and facilities of representation, including investigation and other preparation.

(2) A juvenile who is entitled to be represented by an attorney under subsection (1) of this section is entitled:

(a) To be counseled and defended at all stages of the matter beginning with the earliest time and including revocation of probation or recommitment;

(b) To be represented in any appeal; and

(c) To be represented in any other post-adjudication or review proceeding that the attorney or the juvenile considers appropriate, unless the court in which the proceeding is brought determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense and is therefore a frivolous proceeding.

(3) A juvenile's right to a benefit under subsection (1) or (2) of this section is unaffected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

(4) As early as possible in the proceedings, and in any event before the hearing of the petition on the merits, the juvenile and his parents, or guardian, shall be notified of their right to have counsel represent them. When it appears to the court that the juvenile or his parents or guardian desire counsel but are financially unable to pay for such legal services, the court shall appoint counsel to represent the juvenile and his parents or guardian; provided that in the event the court shall find that there is a conflict of interest between the interests of the juvenile and his parents or guardian, then the court shall appoint separate counsel for the juvenile, whether or not he or his parents or guardian are able to afford counsel, unless there is an intelligent waiver of the right of counsel by the juvenile, except as provided in subsection (6) of this section, and the court further determines that the best interest of the juvenile does not require the appointment of counsel. Counsel appointed under this section shall initially receive reasonable compensation from the county and the county

shall have the right to be reimbursed for the cost thereof by the parents or guardian as hereafter provided in this section.

(5) Any waiver of the right to counsel by a juvenile under this act shall be made in writing, on the record and upon a finding by the court that:

- (a) The juvenile has been informed of the right to counsel and the dangers and disadvantages of self-representation; and
- (b) The waiver is intelligently made after consideration of the totality of the circumstances including, but not limited to:
 - (i) The age, maturity, intelligence, education, competency and comprehension of the juvenile;
 - (ii) The presence of the juvenile's parents or guardian;
 - (iii) The seriousness of the offense;
 - (iv) The collateral consequences of adjudication of the offense; and
 - (v) Whether the interests of the juvenile and his parents or guardian conflict.

(6) A juvenile shall not be permitted to waive the assistance to counsel in any of the following circumstances:

- (a) If the juvenile is under the age of fourteen (14) years;
- (b) In sentencing proceedings in which it has been recommended that the juvenile be committed to the legal custody of the department of juvenile corrections;
- (c) In proceedings in which the juvenile is being adjudicated for commission of a crime of a sexual nature;
- (d) In proceedings in which the juvenile is being adjudicated for commission of a felony;
- (e) In hearings upon a motion to waive jurisdiction under the juvenile corrections act pursuant to section 20-508, Idaho Code;
- (f) In hearings upon a motion to examine the juvenile to determine if he is competent to proceed pursuant to section 20-519A, Idaho Code; or
- (g) In recommitment proceedings.

(7) Upon the entry of an order finding the juvenile is within the purview of this act, the parents, spouse or other person liable for the support of the juvenile, or the estates of such persons, and the estate of such juvenile, may be required by the court to reimburse the county for all or a portion of the cost of those legal services rendered to the juvenile by counsel appointed pursuant to this section that are related to the finding that the juvenile is within the purview of this act, unless the court finds such persons or estate to be indigent as defined in section 19-851(c), Idaho Code, and the requirement would impose a manifest hardship on those

persons responsible for the juvenile or the estates. The current inability of those persons or entities to pay the reimbursement shall not, in and of itself, restrict the court from ordering reimbursement.

(8) The prosecuting attorney of each county may, on behalf of the county, recover payment or reimbursement, as the case may be, from each person or estate who is liable for the payment or reimbursement of the cost of court appointed counsel for the juvenile, as provided in subsection (7) of this section. In the event such payment or reimbursement is not made upon demand by the prosecuting attorney, suit may be brought against such persons by the prosecuting attorney within five (5) years after the date on which such counsel was appointed by the court.

20-515. FAILURE TO OBEY SUMMONS, A CONTEMPT -- WARRANT. If any person summoned as herein provided shall, without reasonable cause, fail to appear, he may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual, or that the welfare of the juvenile offender requires that he be brought forthwith into the custody of the court, a warrant or a *capias* may be issued for the parent, guardian or the juvenile offender.

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

- (a) When he has reasonable cause to believe that the juvenile has committed an act which would be a misdemeanor or felony if committed by an adult; or
- (b) When in the presence of a peace officer or private citizen the juvenile has violated any local, state or federal law or municipal ordinance; or
- (c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian, alcohol age violations under section 18-1502(e), Idaho Code, and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements, and a peace officer may, in his discretion, notify the parent, guardian or legal custodian. In the

event of an alcohol age infraction under section 18-1502(e), Idaho Code, the status offense under this section shall be in addition to the infraction.

(2) A peace officer may take a juvenile into custody upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile comes within the purview of this chapter. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the juvenile is taken into custody. When an officer takes a juvenile into custody, he shall notify the parent, guardian or custodian of the juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of society or the juvenile, such juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the juvenile.

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

(4) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

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

- (a) Parents of the juvenile;
- (b) Relatives of the juvenile;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention center; or
- (f) Community-based diversion programs.

(5) The person in charge of a detention center shall give immediate notice to the court that the juvenile is in his custody.

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

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

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

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

20-516A. JUVENILE PRETRIAL SUPERVISION -- FEES. (1) The board of county commissioners may establish a juvenile supervised pretrial release program to perform those functions as prescribed by the administrative district judge in each judicial district. The board of county commissioners may provide for juvenile supervised pretrial release services through employment of staff, contract, or any other process that will accomplish the purposes of this section. A board of county commissioners shall not be obligated to establish a juvenile supervised pretrial release program. Counties having established a juvenile supervised pretrial release program shall not be obligated to provide juvenile supervised pretrial release services beyond the funds generated by the fees collected and any additional funds that may be annually appropriated by the board of county commissioners.

(2) The court may assess a monthly juvenile pretrial supervision fee that shall be an amount no more than the maximum monthly juvenile probation supervision fee set forth in section 20-520, Idaho Code, per month, or such lesser sum as determined by the administrative judge of the judicial district, against the juvenile offender placed on pretrial supervision. The juvenile pretrial supervision fee shall be paid to the clerk of the district court who shall deposit such fee into the county juvenile probation fund, which is hereby created, in each county or, at the option of the board of county commissioners, deposited in the county justice fund to be used for county juvenile probation services. Moneys from this fee may be accumulated from year to year and shall be expended exclusively for county juvenile pretrial supervision services and related purposes.

(3) A juvenile shall not be required to pay the juvenile pretrial

supervision fee authorized in subsection (2) of this section until after the entry of an order finding the juvenile offender is within the purview of this section.

(4) The court may also order the juvenile to pay additional fees to cover the actual costs of electronic monitoring, alcohol testing, or drug testing if such monitoring or testing is a condition of the juvenile's release. Such additional fees may be paid to the clerk of the court or directly to the provider of the service. If fees are paid to the clerk of the court, the clerk of the court shall pay such fees to the county treasurer and such fees shall be used exclusively to cover the costs for which the additional fees have been ordered.

(5) Any unpaid juvenile pretrial supervision fee shall be considered a debt owed to the court and may be collected in the manner provided by law for the collection of such debts.

20-517. DETENTION ACCOMMODATIONS. (1) The county commissioners shall provide a detention center for the detention of juvenile offenders to be conducted by the court, or, subject to the approval of the court, by other appropriate public agency, provided that such detention shall comply with the provisions of section 20-518, Idaho Code, or within the limits of funds provided by the county commissioners.

(2) For the purpose of carrying out the provisions of this section, the county commissioners may enter into contracts or agreements with public or private agencies, individuals, other counties, or the department of juvenile corrections, which may include the expenditures of moneys outside the county boundaries. If the county in which the court is located has made an agreement with another governmental unit or agency located outside the county or the judicial district for the detention of juvenile offenders under this act, then any court in the county may order a juvenile offender detained outside of the county or outside of the judicial district in the detention center described in such agreement. All detention centers in this section shall be in compliance with section 20-518, Idaho Code, and IDAPA 05.01.02.

(3) The county wherein any court has entered an order for the detention of a juvenile offender outside of the county or outside of the judicial district as provided by subsection (2) of this section shall pay all direct and indirect costs of the detention of the juvenile offender to the governmental unit or agency owning or operating the detention center in which the juvenile offender was detained. The amount of such cost may be determined by agreement between the county wherein the court entered

the order of detention and the county or governmental unit or agency owning or operating such detention center.

(4) All moneys appropriated by the state for the planning and design of regional detention centers shall be administered and distributed by the director of the department of administration for the planning and design of regional detention centers in accordance with the requirements or directives of such appropriation. In administering such moneys, the director of the department of administration shall consult with the designated county officials of every county involved or affected by a proposed regional detention center and shall abide by the decision of the designated representatives of each of the counties so involved or affected.

20-518. STANDARDS FOR DETENTION. The following shall be minimum standards for the detention of juveniles provided for in section 20-517, Idaho Code:

(1) Juvenile detention centers must be so constructed and/or maintained as to keep juveniles segregated from adult offenders with there to be no contact as to sight and/or sound between the two (2) classes. Those juveniles being treated as adult offenders pursuant to section 20-508 or 20-509, Idaho Code, may be housed in a juvenile detention center if so ordered by the court. Such juveniles may be housed in the general juvenile population without sight and sound separation if it is determined by the detention administration that the safety and security of the other juveniles would not be at risk.

(2) Juvenile detention centers must provide supervision and observation of juveniles sufficient to protect the physical and mental health of the detainees.

(3) Juveniles held in detention must be provided with at least three (3) adequate and nutritional meals per day.

(4) Juveniles held in detention must have access to reading materials on a regular and systematic basis. Detained juveniles may receive books, newspapers and periodicals from any source including delivery to the detention center by family members, subject to the right of detention authorities to inspect and remove dangerous or harmful materials. Detention authorities may forbid the introduction into holding quarters of obscene books or periodicals.

(5) A visiting program shall be established in juvenile detention centers which will allow for family visits to each juvenile for at least two (2) hours each week.

(6) The juvenile detention center shall meet the standards and rules set forth in IDAPA 05.01.02 and IDAPA 11.11.02.

(7) Notwithstanding any other provision in this chapter, the

minimum standards set forth herein shall not apply to any person who attains his or her eighteenth birthday prior to beginning or while in detention. When such person attains his or her eighteenth birthday, he or she shall be transferred from juvenile detention to the county jail.

20-519. EVIDENTIARY HEARING. If the juvenile denies the allegations in the petition, the court shall conduct a full evidentiary hearing, in the manner prescribed by the Idaho juvenile rules. The juvenile shall have the right to call witnesses on his own behalf. A record shall be made in all proceedings connected with the case and shall be preserved in the event of appeal. If at the conclusion of the evidentiary hearing the court finds the juvenile to come within the purview of the act, the court shall so rule, and then shall set the matter down for sentencing, or may, in the interest of time, hold a sentencing hearing at the conclusion of the evidentiary hearing if all information necessary to the disposition of the case is available at the time.

When a juvenile, other than the juvenile against whom the petition has been filed, is summoned as a witness in any hearing under this act, notwithstanding any other statutory provision, parents, a counselor, a friend or other person having a supportive relationship with the juvenile shall, if available, be permitted to remain in the courtroom at the witness stand with the juvenile during the juvenile's testimony unless, in written findings made and entered, the court finds that the juvenile's constitutional right to a fair trial will be unduly prejudiced.

20-519A. EXAMINATION OF JUVENILE -- COMPETENCY -- APPOINTMENT OF PSYCHIATRISTS, LICENSED PSYCHOLOGISTS OR EVALUATION COMMITTEE -- HOSPITALIZATION -- REPORT. (1) At any time after the filing of a delinquency petition, a party may request in writing, or the court on its own motion may order, that the juvenile be examined to determine if the juvenile is competent to proceed. The request shall state the facts in support of the request for a competency examination. If, based upon the provisions of subsection (2) of this section, the court determines that there is good cause to believe that the juvenile is incompetent to proceed, then the court shall stay all proceedings and appoint at least one (1) examiner who shall be a qualified psychiatrist or licensed psychologist, or shall order the department of health and welfare to designate, within two (2) business days, at least one (1) examiner who shall be a qualified psychiatrist or licensed psychologist, to examine and report upon the mental condition of the juvenile. If there is reason to believe the basis for the juvenile's incompetency is due to a developmental disability, the court

shall appoint an evaluation committee as defined in section 66-402, Idaho Code, or shall order the department of health and welfare to designate, within two (2) business days, an evaluation committee, to examine and report upon the mental condition of the juvenile. The county shall be responsible for the cost of such evaluation subject to any reimbursement by the parents or other legal guardian of the juvenile. The court may order the parents or other legal guardian of the juvenile, unless indigent, to contribute to the costs of such examination in an amount to be set by the court after due notice to the parent or other legal guardian and the opportunity to be heard.

(2) A juvenile is competent to proceed if he or she has:

(a) A sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding;

(b) A rational and factual understanding of the proceedings against him or her; and

(c) The capacity to assist in preparing his or her defense.

(3) Within three (3) business days of the appointment or designation of an examiner or an evaluation committee pursuant to the provisions of subsection (1) of this section, the examiner or evaluation committee shall determine the best location for the examination. The examination shall be conducted on an outpatient basis unless the court specifically finds that hospitalization or confinement of the juvenile for evaluation of competency is necessary, the juvenile is currently hospitalized in a psychiatric hospital or the juvenile is detained. The court may order the juvenile be confined to a hospital or other suitable facility, including detention as defined in section 20-502, Idaho Code, after a hearing to determine whether such confinement is necessary. Any such confinement shall be for the purpose of examination and shall be for a period not exceeding ten (10) days from the date of admission to the hospital or other suitable facility. The court, upon request, may make available to the examiner or the evaluation committee any court records relating to the juvenile.

(4) The examiner or evaluation committee may employ any method of examination that is accepted by the examiner's profession for the examination of juveniles alleged not to be competent, provided that such examination shall, at a minimum, include formal assessments of the juvenile in each of the following domains:

(a) Cognitive functioning;

(b) Adaptive functioning;

(c) Clinical functioning;

(d) Comprehension of relevant forensic issues; and

(e) Genuineness of effort.

(5) If at any time during the examination process, the examiner has reason to believe that the juvenile's alleged incompetency may be the result of a developmental disability and the matter has not already been referred to an evaluation committee for review, the examiner shall immediately notify the court. The court shall appoint an evaluation committee, or shall order the department of health and welfare to designate, within two (2) business days, an evaluation committee, to examine and report upon the mental condition of the juvenile. Conversely, if at any time during the examination process an evaluation committee has reason to believe the juvenile's alleged incompetency is not the result of a developmental disability, the evaluation committee shall immediately notify the court so the examination can be completed by a qualified psychiatrist or licensed psychologist as set forth in subsection (1) of this section. The new examination and report shall be conducted within the time frames set forth in subsection (6) of this section.

(6) The examiner or evaluation committee shall submit a written report to the court within thirty (30) days of receipt of the appointment or designation. The report shall address the factors set forth in section 20-519B, Idaho Code. If the examiner or evaluation committee determines that the juvenile is incompetent to proceed, the report shall also include the following:

- (a) The nature of the mental disease, defect, disability or other condition including chronological age that is the cause of the juvenile's incompetency;
- (b) The juvenile's prognosis;
- (c) Whether the examiner or evaluation committee believes the juvenile may be restored to competency and an estimated time period in which competence could be restored with treatment;
- (d) If the juvenile may be restored to competency, the recommendations for restoration shall be the least restrictive alternative that is consistent with public safety;
- (e) If the juvenile is not competent and there is no substantial probability that the juvenile can be restored to competency within six (6) months, a recommendation as to whether the juvenile meets the criteria set forth in section 16-2418, 66-329(11) or 66-406(11), Idaho Code, and identification of any other services recommended for the juvenile that are the least restrictive, community based and consistent with public safety; and
- (f) No statements of the juvenile relating to the alleged offense shall be included in the report unless such statements are relevant to the examiner or evaluation committee's opinion regarding competency.

(7) The court, upon a finding of good cause, may alter the time frames for the designation of an examiner or evaluation committee, the completion of the examination or the completion of the report but shall ensure that the examination and competency determination occur as expeditiously as possible. The court may, upon a finding of good cause, vacate or continue the ninety (90) day restoration review hearing set forth in section 20-519C, Idaho Code.

(8) The report of the examination shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the juvenile.

(9) If the examination cannot be conducted by reason of the unwillingness of the juvenile to participate, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the juvenile was the result of age, mental disease, defect or disability and whether the examiner recommends that a second examiner be appointed to examine the juvenile.

20-519B. DETERMINATION OF COMPETENCY OF JUVENILE TO PROCEED -- SUSPENSION OF PROCEEDINGS -- RESTORATION ORDER -- COMMITMENT. (1) The court shall hold a hearing no later than thirty (30) days after the report of the examiner or evaluation committee is filed pursuant to the provisions of section 20-519A, Idaho Code. At the hearing, the court may receive as evidence the report of the examiner or evaluation committee. In considering whether the juvenile is competent to proceed, the court shall consider the following:

- (a) A description of the nature, content, extent and results of the examination and any test that was conducted;
- (b) The juvenile's capacity to understand the charges or allegations against the juvenile;
- (c) The juvenile's capacity to understand the range and nature of possible penalties that may be imposed in the proceedings;
- (d) The juvenile's capacity to understand the adversarial nature of the legal process;
- (e) The juvenile's capacity to disclose to counsel facts pertinent to the proceedings at issue;
- (f) Whether the juvenile is able to display appropriate courtroom behavior;
- (g) Whether the juvenile is able to receive accurate impressions of the facts about which he or she is examined, is able to appreciate the meaning of an oath to tell the truth and has an understanding of the potential consequences of not telling the truth;
- (h) The examiner's opinion as to the competency of the juvenile

as defined in subsection (2) of section 20-519A, Idaho Code.

(2) The weight to be given to each of the factors listed in subsection (1) of this section is discretionary with the court and a determination that the juvenile is or is not competent to proceed may be based on any one (1) or a combination of such factors, which shall be recited in the court's order regarding competency.

(3) If neither the prosecuting attorney nor counsel for the juvenile contests the findings of the report of the examiner or evaluation committee, the court may make the determination on the basis of such report. If a party contests the findings of such report, they shall have the right to cross-examine the qualified psychiatrist or licensed psychologist who prepared and submitted the report and to offer evidence upon this issue. A finding of incompetency shall be based upon a preponderance of the evidence.

(4) If the court finds the juvenile is competent to proceed, the proceedings shall continue without delay.

(5) If the court initially finds that the juvenile is incompetent and there is not a substantial probability that the juvenile will be restored to competency within six (6) months, the court may stay or dismiss the matter. In determining whether to stay or dismiss the matter, the court shall consider all relevant factors including, but not limited to, the seriousness of the alleged offense, resources available to the juvenile and any issues of public safety. Prior to a stay or dismissal of the matter, the court may convene a screening team consisting of representatives from the department of health and welfare, county probation, local school officials, and/or other agencies or persons designated by the court to develop a treatment plan for the juvenile. In developing such treatment plan, the recommendations contained in the competency examination shall be considered to ensure necessary services for the juvenile are put into place. Parents and guardians of the juvenile, if available, shall be included in the screening team and consulted with regard to the plan of treatment. If appropriate, the court may hold a hearing to determine whether proceedings under chapter 24, title 16, or chapter 3 or 4, title 66, Idaho Code, should be instituted. If such proceedings are initiated, the juvenile court may retain jurisdiction over said proceedings.

(6) If the court determines that the juvenile is incompetent to proceed, but may be restored to competency within six (6) months, the court shall order a plan of treatment to be developed by the department of health and welfare for the juvenile to undergo efforts at restoration to competency. The court may:

- (a) Convene a restoration treatment team to make recommendations on a plan of treatment;

(b) Order any agencies that have treated or had custody of the juvenile to release any pertinent information or records to the department of health and welfare to be used in the development and implementation of the juvenile's restoration plan;

(c) Order the department of health and welfare, county probation, school officials and the department of juvenile corrections to release all pertinent information regarding the juvenile to the court, the department of health and welfare and any restoration treatment team to be used in the development and implementation of the juvenile's restoration plan;

(d) Require the parents or guardians of the juvenile, and where appropriate require the juvenile, to allow information pertinent to the restoration treatment plan be released to the department of health and welfare, the court and any restoration treatment team.

(7) If the court determines that the juvenile is incompetent to proceed, but may be restored to competency, the court may order a juvenile to participate in the competency restoration program as developed by the department of health and welfare. The purpose of the treatment or training is the restoration of the juvenile's competency to proceed. In determining the type and location of the competency restoration program and in designating a restoration provider, the department of health and welfare shall identify the least restrictive alternative that is consistent with public safety and consider whether inpatient treatment, residential care or secure confinement is necessary for program participation.

(a) An inpatient or residential or secure detention facility is only appropriate if all available less restrictive alternatives in community settings which would offer an opportunity for improvement of the juvenile's condition are inappropriate. If the department of health and welfare's plan of restoration requires the juvenile be placed in an inpatient, residential or secure detention facility, the court shall hold a hearing on whether to order such placement unless the hearing is waived by the juvenile and the juvenile's parents or guardians. Juveniles charged with only a status offense or multiple status offenses shall not be held in a secure confinement or detention facility for restoration purposes.

(b) The department of health and welfare is responsible for determining the competency restoration program and services. All costs associated with restoration services shall be the responsibility of the parents of the juvenile according to their ability to pay based upon the sliding fee scale established pursuant to section 16-2433, Idaho Code. The financial obligation of the parents shall be determined after consideration of all available payment and funding

sources including title XIX of the social security act, as amended, all available third party sources including funding available to the juvenile from other programs, grants or agencies and parent resources according to any order for child support under chapter 10, title 32, Idaho Code. Services shall not be conditioned upon transfer of custody of parental rights.

(8) If a juvenile is determined to be incompetent to proceed but may be restored to competency, the court shall retain jurisdiction of the juvenile for up to six (6) months. A restoration order issued pursuant to this section is valid for six (6) months from the date of the initial finding of incompetency or until one (1) of the following, whichever occurs first:

(a) The restoration program submits a report that the juvenile has become competent to proceed or that there is no substantial probability that the juvenile will regain competency within the period the order is valid;

(b) The charges are dismissed; or

(c) The juvenile reaches twenty-one (21) years of age.

(9) The court may extend the restoration order beyond six (6) months upon a showing of good cause. If the juvenile reaches twenty-one (21) years of age, the matter shall be dismissed. If the court concludes that there is no substantial probability that the juvenile will regain competency within the period the order is valid, then the provisions of subsection (5) of this section shall apply.

20-519C. RESTORATION REPORTS -- HEARINGS. (1) A report shall be filed by the restoration provider at least every ninety (90) days or whenever the restoration provider believes the juvenile is competent to proceed or whenever the restoration provider believes there is no substantial probability that the juvenile will regain competency before the expiration of the order to participate in a competency restoration program or fourteen (14) days before expiration of the restoration order.

(2) The court shall hold a review hearing regarding the progress towards competency at least every ninety (90) days while the juvenile participates in a restoration program. The court may consider the restoration provider's report at the review hearing to assess the juvenile's progress and to determine whether restoration services should continue.

20-519D. ADMISSIBILITY OF STATEMENTS BY EXAMINED OR TREATED JUVENILE. A statement made by a juvenile subject to a competency examination or restoration treatment pursuant to section 20-519A or 20-519B, Idaho Code, for the purposes of such examination or treatment shall not be admissible in evidence in any delinquency or

criminal proceeding against the juvenile on any issue other than the juvenile's ability to assist counsel at trial or to form any specific intent which is an element of the crime charged, except that such statements of a juvenile to the examiner, evaluation committee or restoration provider as are relevant for impeachment purposes may be received subject to the usual rules of evidence governing matters of impeachment.

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

(a) Place the juvenile offender on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile offender on formal probation for a period not to exceed the juvenile offender's twenty-first birthday if the court finds that the juvenile offender has committed a crime of a sexual nature. If a juvenile offender is committed to the Idaho department of juvenile corrections pursuant to paragraph (s) of this subsection, the court may place the juvenile offender on probation from the date of sentencing up to three (3) years past the date of release from custody or the juvenile offender's twenty-first birthday, whichever occurs first; provided the court shall conduct a review hearing within thirty (30) days following release of the juvenile offender from the department of juvenile corrections in order to determine the conditions and term of such probation;

(b) Sentence the juvenile offender to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of 18 U.S.C. 922(x), or the court finds that the juvenile offender has

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

If the court, after notice and hearing, finds that a juvenile offender has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile offender to detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile offender to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile offender is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile offender has been adjudicated as an habitual status offender;

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

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

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

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

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

(i) The court may order that the county probation office authorize

a comprehensive substance abuse assessment of the juvenile offender. After receiving the comprehensive substance abuse assessment, and upon a finding by the court that treatment will provide a cost-effective means of achieving the sentencing goals of accountability, competency development and community protection, the court may order that the juvenile offender receive immediate treatment for substance abuse in keeping with a plan of treatment approved by the court. The initial cost of the assessment and treatment shall be borne by the department of juvenile corrections with funds allocated to the county probation office. The director of the department of juvenile corrections may promulgate rules consistent with this paragraph to establish a schedule of fees to be charged to parents by the county probation office for such services based upon the cost of the services and the ability of parents to pay;

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

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

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

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

(n) Order the case and all documents and records connected therewith transferred to the magistrate division of the district court for the county where the juvenile offender and/or parents reside if

different than the county where the juvenile offender was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

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

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

(q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile offender for every petition filed where there has been an adjudication that the juvenile offender is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required;

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

(s) Commit the juvenile offender to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile offender's nineteenth birthday, unless the custody review board determines that extended time in

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

(t) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

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

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

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

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

(6) The clerk of the district court, with the approval of the

administrative district judge, may use the procedures set forth in section 19-4708, Idaho Code, for the collection of other debts owed to the court by the juvenile offender.

20-520A. DISMISS AND DISCHARGE UPON COMPLETION OF AUTHORIZED DRUG, MENTAL HEALTH OR OTHER AUTHORIZED PROBLEM SOLVING COURT PROGRAM. If a juvenile offender has successfully completed and graduated from an authorized juvenile drug court program, juvenile mental health court program or other authorized problem solving court program and, during any period of probation that may have been served following such graduation, has satisfied the terms or conditions of the probation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the juvenile's sentence, set aside the adjudication of the juvenile offender finding the juvenile offender within the purview of the juvenile corrections act, and finally dismiss the case and discharge the juvenile offender from the jurisdiction of the court. This section shall apply to the cases in which juvenile offenders have been found within the purview of the juvenile corrections act before the effective date of this section, as well as to cases that arise on or after the effective date of this section.

20-521. HABITUAL STATUS OFFENDER. (1) Any juvenile offender who has been adjudicated for commission of two (2) status offenses within twelve (12) months may be charged, petitioned and adjudicated as an habitual status offender for the third status offense committed within that twelve (12) month period.

(2) The court may utilize any dispositional alternative for an habitual status offender that is detailed in section 20-520, Idaho Code, except that the juvenile offender shall not be placed in an Idaho juvenile correctional center.

20-522. JURISDICTION OVER PARENTS. Whenever a juvenile offender is found to come under the purview of this chapter, the court shall have jurisdiction and authority to have the juvenile offender and the juvenile offender's parent(s), legal guardian or custodian sign a probationary contract with the court containing terms and conditions that the juvenile offender and the juvenile offender's parent(s), legal guardian or custodian must adhere to as a condition of the juvenile offender's probation. The probationary contract may provide that upon a violation or breach of the terms and conditions of the probationary contract, the

juvenile offender's parent(s), legal guardian or custodian shall be liable to the court for a specific monetary sum not in excess of one thousand dollars (\$1,000) for the breach of contract. All such moneys shall be payable to the court and shall be in addition to any other fines, penalties or other sanctions provided by law. Any moneys received by the court pursuant to this section shall be paid into the juvenile corrections fund created in section 20-542, Idaho Code. In lieu of or in addition to a monetary payment, the court may order that the parent(s), legal guardian or custodian attend parenting classes or undergo other treatment or counseling. Any person violating any order of the court entered under the provisions of this section shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

20-523. SCREENING TEAMS TO PROVIDE ASSISTANCE TO COURT. In order to provide assistance to a court in making a disposition pursuant to section 20-520, Idaho Code, a screening team composed of a county probation officer or other investigation officer or agency designated by the court may meet and provide a written recommendation delineating options to the court for disposition of the case pursuant to this chapter.

20-524. SUPPORT OF JUVENILE OR JUVENILE OFFENDER -- REIMBURSEMENT FOR COSTS INCURRED. (1) Whenever a juvenile or juvenile offender is placed by the court in custody other than that of his or her parents or custodian, after due notice to the parent or other persons legally obligated to care for and support the juvenile or juvenile offender, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the juvenile or juvenile offender. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(2) If the juvenile or juvenile offender is detained, the court may order that the parents of the juvenile or juvenile offender or other legally obligated person contribute to the costs of detention in an amount to be set by the court. The order may be filed and shall have the effect of a civil judgment. It is the intent of the legislature that foster parents or a parent or legal guardian receiving public assistance relating to that juvenile or juvenile offender should not benefit from the continued receipt of payments or public assistance from any state or federal agency while the

juvenile or juvenile offender is detained. The department of health and welfare is directed to promulgate a rule implementing this intent.

20-524A. DEPARTMENT'S PAYMENT OF DETENTION COSTS. If the juvenile offender is committed to the custody of the department of juvenile corrections pursuant to chapter 5, title 20, Idaho Code, the department shall reimburse the county for the period of time in excess of five (5) calendar days during which the juvenile offender is housed at a detention center. This time period shall begin to run on the first business day the department receives a copy of the order of commitment, executed by the court. Orders received by the department after 3 o'clock p.m., Mountain Standard Time, on a business day, will be considered to have been received the next business day. Facsimile transmissions of the order are acceptable.

20-525. RECORDS -- PRIVILEGED INFORMATION. (1) The court shall maintain records of all cases brought before it. In proceedings under this act the following juvenile courtroom proceedings and records shall be open to the public: all proceedings against a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult including the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(2) Juvenile courtroom proceedings and records shall remain confidential when the court and the prosecutor agree extraordinary circumstances exist that justify records of a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult should remain confidential because it is in the best interest of the juvenile offender.

(3) In proceedings under this act the following records and court proceedings of juvenile offenders of the age of thirteen (13) years or younger shall not be withheld from public inspection, except on court order, which order must be made in writing in each case: the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(4) These records shall be open to inspection according to chapter

1, title 74, Idaho Code. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall be subject to disclosure according to chapter 1, title 74, Idaho Code.

(5) The victim of misconduct shall always be entitled to the name of the juvenile offender involved, the name of the juvenile offender's parents or guardian, and their addresses and telephone numbers, if available in the records of the court.

(6) Notwithstanding the other provisions of this act and notwithstanding any order entered pursuant hereto, nothing in this act shall prohibit the exchange of records created pursuant to this act between prosecuting attorneys or courts in this state.

20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY -- SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in a case under this act and found to be within the purview of the act for having committed a felony offense or having been committed to the department of juvenile corrections may, after the expiration of five (5) years from the date of termination of the continuing jurisdiction of the court, or, in case the juvenile offender was committed to the juvenile correctional center, five (5) years from the date of his release from the juvenile correctional center, or after reaching age eighteen (18) years, whichever occurs last, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and of the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

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

(3) In any case where the prosecuting attorney has elected to utilize the diversion process or the court orders an informal adjustment pursuant to section 20-511, Idaho Code, the person may, after the expiration of one (1) year from the date of termination of the continuing

jurisdiction of the court or after reaching age eighteen (18) years, whichever occurs later, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

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

- (a) Administering poison with intent to kill (18-4014, Idaho Code);
- (b) Aggravated battery (18-907, Idaho Code);
- (c) Armed robbery (chapter 65, title 18, Idaho Code);
- (d) Arson (chapter 8, title 18, Idaho Code);
- (e) Assault with intent to commit a serious felony (18-909, Idaho Code);
- (f) Assault with intent to murder (18-4015, Idaho Code);
- (g) Assault or battery upon certain personnel, felony (18-915, Idaho Code);
- (h) Forcible sexual penetration by use of a foreign object (18-6608, Idaho Code);
- (i) Infamous crime against nature, committed by force or violence (18-6605, Idaho Code);
- (j) Injury to child, felony (18-1501, Idaho Code);
- (k) Kidnapping (18-4501, Idaho Code);
- (l) Murder of any degree (18-4001 and 18-4003, Idaho Code);
- (m) Rape, excluding statutory rape (18-6101, Idaho Code);
- (n) Ritualized abuse of a child (18-1506A, Idaho Code);
- (o) Sexual exploitation of a child (18-1507, Idaho Code);
- (p) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- (q) Voluntary manslaughter (18-4006 1., Idaho Code);
- (r) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;
- (s) A violation of the provisions of section 37-2732B, Idaho Code, related to drug trafficking or manufacturing of illegal drugs.

(5) If the court finds after hearing that the petitioner has not been adjudicated as a juvenile offender for any of the crimes identified in subsection (4) of this section, and has not been convicted of a felony, or of a misdemeanor wherein violence toward another person was attempted or committed since the termination of the court's jurisdiction or his release from the juvenile correctional center, and that no proceeding involving such felony or misdemeanor is pending or being instituted against him, and if the court further finds to its satisfaction that the petitioner has been held accountable, is developing life skills necessary to become a contributing member of the community and that the expungement of the petitioner's record will not compromise public safety, it shall order all records in the petitioner's case in the custody of the court and all such records, including law enforcement investigatory reports and fingerprint records, in the custody of any other agency or official sealed; and shall further order all references to said adjudication, diversion or informal adjustment removed from all indices and from all other records available to the public. However, a special index of the expungement proceedings and records shall be kept by the court ordering expungement, which index shall not be available to the public and shall be revealed only upon order of a court of competent jurisdiction. Copies of the order shall be sent to each agency or official named in the order. Upon the entry of the order the proceedings in the petitioner's case shall be deemed never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter be permitted only by the court upon petition by the person who is the subject of the records, or by any other court of competent jurisdiction, and only to persons named in the petition.

20-526. ENCOURAGING VIOLATIONS. Any person who by any act or neglect encourages, aids or causes a juvenile to come within the purview or jurisdiction of this chapter, or who after notice that the driving privileges of the juvenile offender have been suspended or restricted under the provisions of this chapter knowingly permits or encourages said juvenile offender to operate a motor vehicle in violation of such suspension or restriction, shall be guilty of a misdemeanor. The court may impose conditions upon any person found guilty under this section, and so long as such person shall comply therewith to the satisfaction of the court, the sentence imposed may be suspended.

20-527. SCHOOL TRUSTEES TO REPORT TRUANTS. When a juvenile of compulsory school age is expelled or is reported to have repeatedly violated the attendance regulations of the school district in

which the juvenile is enrolled, pursuant to section 33-206, Idaho Code, the prosecuting attorney may file a petition under this act. The court shall cause an investigation to be made and upon receipt of the written report of the investigation, the court may proceed under this act or the child protective act with respect to the juvenile and may proceed against the juvenile's parent(s), guardian or custodian under this act pursuant to section 33-207, Idaho Code.

20-528. APPEALS. All orders or final judgments made by any court in matters affecting a juvenile offender within the purview of this act may be appealed by the juvenile offender or the state. A decision by the court pursuant to section 20-508, Idaho Code, not to waive jurisdiction under this act over the juvenile offender may be appealed by the state. Appeals shall be reviewed as provided by the appellate rules of the supreme court of Idaho, except no undertaking shall be required. Upon filing of the notice of appeal, the district court shall take jurisdiction of the case and if the juvenile offender is in detention shall promptly hold a hearing after the filing of a request to determine whether the juvenile offender shall remain in detention.

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

20-530. REASSESSMENT OF COMMITTED JUVENILE OFFENDERS -- RECORDS -- FAILURE TO REASSESS. (1) The department shall make periodic reassessments of all juvenile offenders committed to it for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. Assessments may be made as frequently as the department considers desirable and shall be made with respect to every juvenile offender at intervals not exceeding one (1) year. Reports of periodic reassessments made pursuant to this section shall be filed with the court from which the juvenile offender was committed.

(2) The department shall keep written records of assessments,

prognosis, and all orders concerning disposition or treatment of every juvenile offender committed to it.

(3) Failure of the department to assess a committed juvenile offender or to reassess him within one (1) year of a previous assessment shall not of itself entitle the juvenile offender to discharge from the control of the department but shall entitle him to petition the committing court for an order of discharge and the court shall discharge him unless the department satisfies the court of the need for further control.

20-531. SECURE FACILITIES. (1) The department shall maintain and operate secure facilities for the custody of juvenile offenders who pose a danger of serious bodily harm to others or who have engaged in a pattern of serious criminal offenses, and who cannot be controlled in a less secure setting.

(2) The department shall provide or make available to juvenile offenders in secure facilities, instruction appropriate to the age, needs and range of abilities of the juvenile offenders. An assessment shall be made of each juvenile offender at the secure facility to determine abilities, learning disabilities, interests, attitudes and similar matters. Training in the development of competency and life skills designed to assist the juvenile offender in operating effectively within and becoming a contributing member of the community shall be provided. Prevocational education shall be provided to acquaint juvenile offenders with vocations, their requirements and opportunities.

(3) The department shall place juvenile offenders committed to the department in a state or privately operated secure facility that provides humane care and developmental opportunities for the juvenile offender while promoting accountability and community protection.

(4) The department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. Such standards, policies and procedures shall not be inconsistent with law. Policies shall be promulgated as rules in compliance with chapter 52, title 67, Idaho Code.

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

20-532A. ORDER FOR APPREHENSION AND DETENTION OF ESCAPEES FROM CUSTODY. Upon a finding by the Idaho department of juvenile corrections that a juvenile offender in the custody of the department has escaped, as described in section 18-2505(2) or 18-2506(2), Idaho Code, a written order signed by the director or his designee shall be a sufficient order for detention for any law enforcement officer to apprehend and take into custody such person. It is hereby made the duty of all sheriffs, police, constables, parole officers, prison officials and other peace officers, to execute such order. From and after the issuance of the detention order and until taken into custody, the escapee shall be considered a fugitive from justice. Upon apprehension, the juvenile offender shall be detained in the closest available detention center and shall thereafter be transported by the department as soon as possible or, at the discretion of the detaining authority, the juvenile offender may be transported directly by that authority to the department's nearest regional facility.

20-533. RELEASE FROM CUSTODY OF THE DEPARTMENT. (1) The department shall determine an appropriate date for release of the juvenile offender from the custody of the department, based upon guidelines established by the department. The department shall review and update policy guidelines annually.

(2) Juvenile offenders may be released to their own home, to a residential community-based program, to a nonresidential community-based treatment program, to an approved independent living setting, or to other appropriate residences, but shall remain on probation until the probation is terminated by the court. Following the release of a juvenile offender, the court may conduct a hearing to review the juvenile offender's conditions of probation and determine whether existing conditions should be amended or eliminated or additional conditions imposed.

(3) County probation officers shall enforce probation conditions and supervise juvenile offenders while on probation. As authorized by court order, probation officers may establish additional reasonable conditions of probation with which the juvenile offender must comply. The juvenile offender may move for a hearing before the court to contest any conditions imposed by the probation officer. If the probation officer establishes additional conditions of probation, the probation officer shall advise the juvenile offender at the time such additional conditions are imposed of the juvenile offender's right to move the court for a hearing to contest those conditions.

(4) When the department is considering release of a juvenile offender committed to the department for confinement, the department

shall notify the prosecuting attorney of the county from which the juvenile offender was committed to confinement, the judge whose order caused the juvenile offender to be committed to confinement and the victims of the juvenile offender's unlawful conduct. Notice shall also be given to the same parties upon the actual release of the juvenile offender from the department's custody.

20-533A. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AUTHORIZED -- CONFIDENTIALITY OF RECORDS. (1) All meetings of the custody review board of the Idaho department of juvenile corrections shall be held in accordance with the open meetings law as provided in chapter 2, title 74, Idaho Code, provided however:

(a) Deliberations and decisions of the board concerning whether or not a juvenile offender shall be held in custody of the Idaho department of juvenile corrections for an extended period of time past his or her nineteenth birthday may be made in executive session; and

(b) Votes of individual members in custody decisions shall not be made public, provided that the board shall maintain a record of the votes of the individual members as required in subsection (2) of this section.

(2) A written record of the vote to retain the juvenile offender in custody for an extended period of time by each board member in each case reviewed by that member shall be produced by the board. Such record shall be kept confidential and privileged from disclosure, provided the record shall be made available upon request to the governor, the chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee for all lawful purposes.

(3) A board member or employee of the Idaho department of juvenile corrections who distributes to any person not specifically listed in this section any hearing information or records that are legally required to be kept confidential shall be guilty of a misdemeanor.

(4) Nothing contained in this section shall prevent any person from obtaining the results of any action by the board or director of the Idaho department of juvenile corrections without reference to the manner in which any member voted, and the board shall make such information public unless doing so would violate public records laws.

(5) Nothing contained in this section shall prevent the director, designated staff of the director, the governor, the chairman of the senate judiciary and rules committee or the chairman of the house of

representatives judiciary, rules and administration committee from attending any meeting, including any executive session, of the custody review board.

20-534. MAGISTRATE COURT PROBATION SECTIONS TO FURNISH INFORMATION TO DEPARTMENT. Probation sections of the magistrate division of the district court shall render full and complete cooperation to the department in supplying the department with all pertinent information relating to juvenile offenders committed to the department. This information may include, without limitation, prior criminal history, social history, psychological evaluations, and identifying information specified by the department.

20-535. REVIEW OF PROGRAMS FOR JUVENILE OFFENDERS -- CERTIFICATION. The department shall annually review all state operated or state contracted programs which provide services to juvenile offenders and certify compliance with standards provided by the department. Written reviews shall be provided to the managers of those programs. Based upon policies established by the department, those programs which are unable or unwilling to comply with approved standards may not be certified. Any person owning or operating a private facility who willfully fails to comply with the standards established by the department shall be guilty of a misdemeanor.

20-536. CONTRACTS WITH PRIVATE PROVIDERS OF SERVICES FOR JUVENILE OFFENDERS -- CERTIFICATION REQUIRED. Nothing in this chapter shall prohibit the department from contracting with private providers or other entities for the provision of care, treatment and supervision of juvenile offenders committed to the custody of the department, if these programs are certified as in compliance with department standards within six (6) months after commencing operation.

20-537. PROGRAM RECORDS AS PROPERTY OF DEPARTMENT -- CONTROL OF RECORDS. All records maintained by providers under contract with the department to provide services to juvenile offenders are the property of the department and shall be returned to it when the juvenile offenders are terminated from the provider's programs. The department shall maintain an accurate audit trail of information provided to other programs, providers or agencies regarding juvenile offenders under its jurisdiction.

20-538. RESTITUTION TO VICTIMS OF JUVENILE OFFENDERS -- DUTIES OF DEPARTMENT. (1) The department or county probation shall make reasonable efforts to ensure that restitution is made to the victim of the juvenile offender. Restitution may be made through the employment of juvenile offenders in work programs or directly to the person; provided, however, that reimbursement to the victim is conditional upon the juvenile offender's involvement in such program.

(2) Restitution may be made a condition of probation.

20-539. CREATION OF FUND. There is hereby created in the state treasury a fund known as the "juvenile corrections victim restitution fund," which shall be administered by the department. Moneys in the fund shall consist of wage payments made to juvenile offenders in work programs, appropriations and moneys received by the department from whatever source. Moneys in the fund shall be utilized to provide full or partial restitution to victims of the juvenile offender's delinquent behavior.

20-539A. DISTRIBUTION AND REPORTING REQUIREMENTS FOR STATE, OTHER PUBLIC AND PRIVATE CONTRACT FACILITIES. Each facility housing juvenile offenders in department custody, whether a state, other public or private contract facility, shall comply with the following requirements for disbursement and reporting:

(1) State facilities, upon receiving any moneys credited to a juvenile offender in its custody, shall deposit the funds in the juvenile corrections victim restitution fund pursuant to section 20-539, Idaho Code.

(2) Other public or private contract facilities housing juvenile offenders in department custody, upon receiving any moneys credited to or earned by a juvenile offender at the facility, shall directly distribute the moneys on or before the first day of each calendar quarter to the county court that committed the juvenile offender to department custody. Upon remitting moneys to a county on behalf of a juvenile offender, the facility shall report the direct distribution to the department for inclusion in the department's records.

20-540. REPORTS BY DEPARTMENT. When a juvenile offender has been committed to the department pursuant to this chapter, the department shall supply a report of the juvenile offender's educational and developmental progress to the committing court as often as the court deems necessary in its order of commitment, but not less frequently than every three (3) months.

20-541. SPECIAL COMMISSIONER -- DUTIES. The court shall be authorized to appoint a special commissioner to assist in the conduct of proceedings under this chapter. In any case in which the court refers a petition to the commissioner, the commissioner shall promptly cause the matter to be investigated and on the basis thereof shall either recommend dismissal of the petition or hold a hearing as provided in this act and make recommendations to the court regarding the disposition of the matter. Such commissioner shall be paid for services rendered on order of the court from county funds in such amount as is determined by the court.

20-542. JUVENILE CORRECTIONS FUND -- CREATION. There is hereby created in the state treasury, the juvenile corrections fund. Moneys in the fund shall be utilized by the department for construction and administration of facilities under the jurisdiction of the department of juvenile corrections, for assistance to a county or series of counties in constructing, contracting for or administering detention facilities for juvenile offenders, to coordinate training for juvenile detention officers and/or juvenile probation officers, and for alternative programs designed to help juveniles avoid the traditional juvenile corrections system. All moneys in the fund may be expended only pursuant to appropriation by the legislature.

20-547. CONSTRUCTION OF ACT -- CITATION OF ACT -- OTHER CODE REFERENCES CONSTRUED. This act shall be liberally construed to the end that the legislative policy expressed herein is achieved. This act may be cited as the "Juvenile Corrections Act of 1995."

20-548. COMPENSATION -- AMOUNT -- CREDITING ACCOUNT OF JUVENILE OFFENDER -- JUVENILE OFFENDERS NOT EMPLOYEES. Each juvenile offender who is engaged in productive work under the jurisdiction of the director of the department of juvenile corrections may receive for this work such compensation as the director shall determine, to be paid out of any funds available in the department of juvenile corrections competency development account. After payment of restitution pursuant to section 20-538, Idaho Code, compensation shall be credited to the account of the juvenile offender to be used for payment of fines, reimbursement to the department of juvenile corrections for expenses directly related to that juvenile offender, and upon certain circumstances, payment to the juvenile offender upon release from the department of juvenile corrections.

No juvenile offender compensated under this act shall be considered an employee of the state or the department of juvenile corrections, nor

shall any juvenile offender come within any of the provisions of the worker's compensation law, or be entitled to any benefits thereunder whether on behalf of himself or any other person.

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

Any peace officer may issue a citation for violation of a curfew that shall thereafter proceed under the juvenile corrections act in the same manner as though the violation was charged by a petition. Citations shall be issued on the Idaho uniform citation form. The peace officer issuing a curfew citation may detain the violator and at the time the citation is issued shall make a reasonable effort to obtain the endorsement of the juvenile's parent or legal guardian on the citation. If the endorsement of a parent or legal guardian cannot be obtained with the exercise of reasonable diligence, a copy of the citation shall be hand delivered or mailed to the juvenile's parent or legal guardian by a peace officer at least seven (7) days prior to the date set for the juvenile's appearance. The citation shall provide a date certain for the appearance before a magistrate of the juvenile and parent or legal guardian.

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RELATED STATUTES
Title 18, Chapter 15

18-1507A. SEXUAL EXPLOITATION OF A CHILD BY ELECTRONIC MEANS. (1) A minor child who, without being induced by coercion, manipulation or fraud, creates or causes to be created any photographic, electronic or video content of said minor child that would be characterized under any of the classifications defined in section 18-1507(1)(c) through (j), Idaho Code, and knowingly and willfully distributes it to another person or persons through electronic or other means or causes it to appear in a form where the distributing minor has reason to believe another will view it is guilty of a misdemeanor provided that the image was communicated in a form that there was a single recipient.

(2) A minor child who, without being induced by coercion, manipulation or fraud, creates or causes to be created any photographic, electronic or video content of said minor child that would be characterized under any of the classifications defined in section 18-1507(1)(c) through (j), Idaho Code, and knowingly and willfully distributes it in such a way and through such a medium that the minor intended or had reason to believe that multiple parties would receive or have access to the image:

(a) Is guilty of a misdemeanor on the first adjudicated offense; and

(b) Is guilty of a felony on the second or subsequent adjudicated offense.

(3) A minor who is found to be in knowing and willful possession of the content created and sent as described in subsection (1) or (2) of this section is guilty of a misdemeanor if the content depicts a minor who is not greater than three (3) years younger than the minor who is found to be in possession. A minor who is found to be in knowing and willful possession of content described in this subsection that depicts a minor greater than three (3) years younger than themselves is guilty of a violation of section 18-1507(2)(a), Idaho Code.

(4) A minor who is found to be in possession of content described in subsection (1) or (2) of this section who knowingly and willfully transmits or displays the image to one (1) or more third parties:

(a) Is guilty of a misdemeanor on the first adjudicated offense; and

(b) Is guilty of a felony on any second or subsequent adjudicated offense.

(5) A minor who receives content under circumstances described in subsection (1) or (2) of this section and distributes or threatens to distribute the image for the purposes of coercing any action, causing any embarrassment or otherwise controlling or manipulating the sender is guilty of a felony.

(6) A minor who receives content under circumstances described in subsection (1) or (2) of this section and distributes the image to a parent, guardian, one having custody of the minor or a law enforcement official for the purpose of reporting the activity is not guilty of a crime under the provisions of this section.

(7) Proceedings for a violation of the provisions of this section shall fall under the jurisdiction of the juvenile corrections act pursuant to section 20-505(1), Idaho Code.

Title 18, Chapter 25

18-2505. ESCAPE BY ONE CHARGED WITH, CONVICTED OF, OR ON PROBATION FOR A FELONY -- ESCAPE BY A JUVENILE FROM CUSTODY. (1) Every prisoner charged with, convicted of, or on probation for a felony who is confined in any correctional facility, as defined in section 18-101A, Idaho Code, including any private correctional facility, or who while outside the walls of such correctional facility in the proper custody of any officer or person, or while in any factory, farm or other place without the walls of such correctional facility, who escapes or attempts to escape from such officer or person, or from such correctional facility, or from such factory, farm or other place without the walls of such correctional facility, shall be guilty of a felony, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged. Escape shall be deemed to include abandonment of a job site or work assignment without the permission of an employment supervisor or officer. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking or monitoring, or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care. A person may not be charged with the crime of escape for leaving the aforementioned area of restriction unless the person was notified in writing by the court at the time of setting of bail, release or

sentencing of the consequences of violating this section by intentionally leaving the area of restriction.

(2) Any person who is charged with, found to have committed, adjudicated for or is on probation for an offense which would be a felony if committed by an adult, and who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of any officer or person shall be subject to proceedings under chapter 5, title 20, Idaho Code, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to section 20-508 or 20-509, Idaho Code, or was eighteen (18) years of age or older at the time of the escape or attempted escape, the person shall be guilty of a felony for a violation of this section and shall be subject to adult criminal proceedings.

18-2506. ESCAPE BY ONE CHARGED WITH OR CONVICTED OF A MISDEMEANOR -- ESCAPE BY A JUVENILE FROM CUSTODY.

(1)(a) Every prisoner charged with or convicted of a misdemeanor who is confined in any county jail or other place or who is engaged in any county work outside of such jail or other place, or who is in the lawful custody of any officer or person, who escapes or attempts to escape therefrom, is guilty of a misdemeanor. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking or monitoring, or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care. A person may not be charged with the crime of escape for leaving the aforementioned area of restriction unless the person was notified in writing by the court at the time of setting of bail, release or sentencing of the consequences of violating this section by intentionally leaving the area of restriction.

(b) In cases involving escape or attempted escape by use of threat, intimidation, force, violence, injury to person or property other than that of the prisoner, or wherein the escape or attempted escape was perpetrated by use or possession of any weapon, tool, instrument or other substance, the prisoner shall be guilty of a felony.

(2) Any person who is charged with, found to have committed, adjudicated for or is on probation for an offense which would be a misdemeanor if committed by an adult, and who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and

who escapes or attempts to escape from the facility or from the lawful custody of an officer or person, shall be subject to proceedings under the provisions of chapter 5, title 20, Idaho Code, for an act which would be a misdemeanor if committed by an adult, or, if the escape or attempted escape was undertaken as provided in subsection (1)(b) of this section, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to section 20-508 or 20-509, Idaho Code, or was eighteen (18) years of age or older at the time of the escape or attempted escape, the person shall be guilty of a misdemeanor, or if subsection (1)(b) of this section applies, of a felony and, in either case, shall be subject to adult criminal proceedings.

Title 19, Chapter 26

19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PROBATION. Whenever any person shall have been convicted, or enter a plea of guilty, in any district court of the state of Idaho, of or to any crime against the laws of the state, except those of treason or murder, the court in its discretion may:

1. Commute the sentence and confine the defendant in the county jail, or, if the defendant is of proper age, commit the defendant to the custody of the state department of juvenile corrections;

2. Suspend the execution of the judgment at the time of judgment or at any time during the term of a sentence in the county jail and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate;

3. Withhold judgment on such terms and for such time as it may prescribe and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate; or

4. Suspend the execution of the judgment at any time during the first three hundred sixty-five (365) days of a sentence to the custody of the state board of correction. The court may retain jurisdiction over the prisoner for a period of up to the first three hundred sixty-five (365) days. Except as provided for in section 19-2601A, Idaho Code, during the period of retained jurisdiction, the state board of correction shall be responsible for determining the placement of the prisoner and such education, programming and treatment as it determines to be appropriate. The prisoner will remain committed to the board of correction if not affirmatively placed on probation by the court. In extraordinary circumstances, where the court concludes that it is unable to obtain and

evaluate the relevant information within the period of retained jurisdiction, or where the court concludes that a hearing is required and is unable to obtain the defendant's presence for such a hearing within such period, the court may decide whether to place the defendant on probation or release jurisdiction within a reasonable time, not to exceed thirty (30) days, after the period of retained jurisdiction has expired. Placement on probation shall be under such terms and conditions as the court deems necessary and appropriate. The court in its discretion may sentence a defendant to more than one (1) period of retained jurisdiction after a defendant has been placed on probation in a case or following release from commitment to the department of juvenile corrections pursuant to section 19-2601A, Idaho Code. In no case shall the board of correction or its agent, the department of correction, be required to hold a hearing of any kind with respect to a recommendation to the court for the grant or denial of probation. Probation is a matter left to the sound discretion of the court. Any recommendation made by the state board of correction to the court regarding the prisoner shall be in the nature of an addendum to the presentence report. The board of correction and its agency, the department of correction, and their employees shall not be held financially responsible for damages, injunctive or declaratory relief for any recommendation made to the district court under this section.

5. If the crime involved is a felony and if judgment is withheld as provided in subsection 3. of this section or if judgment and a sentence of custody to the state board of correction is suspended at the time of judgment in accordance with subsection 2. of this section or as provided by subsection 4. of this section, the court may place the defendant on probation. If the court places the defendant on probation to the board of correction, the court shall include in the terms and conditions of probation a requirement that the defendant enter into and comply with an agreement of supervision with the board of correction. The agreement of supervision shall include provisions setting forth the potential sanctions for a violation of the terms or conditions imposed and potential rewards for compliance with the terms and conditions imposed, as such sanctions and rewards are set forth in rules of the board of correction.

6. If the crime involved is a misdemeanor, indictable or otherwise, or if the court should suspend any remaining portion of a jail sentence already commuted in accordance with subsection 1. of this section, the court, if it grants probation, may place the defendant on probation.

7. The period of probation ordered by a court under this section under a conviction or plea of guilty for a misdemeanor, indictable or otherwise, may be for a period of not more than two (2) years; provided

that the court may extend the period of probation to include the period of time during which the defendant is a participant in a problem solving court program and for a period of up to one (1) year after a defendant's graduation or termination from a problem solving court program. Under a conviction or plea of guilty for a felony the period of probation may be for a period of not more than the maximum period for which the defendant might have been imprisoned.

19-2601A. BLENDED SENTENCE.

(1) If the convicted juvenile is a juvenile held for adult criminal proceedings, the court may suspend execution of judgment of a sentence, retain jurisdiction and issue an order committing the convicted juvenile to dual custody with the state board of correction and the department of juvenile corrections.

(2) During this period of dual custody and retained jurisdiction:

(a) The department of juvenile corrections shall assume physical custody of and financial responsibility for the convicted juvenile from the time of the court's order until the court terminates the department's custody, jurisdiction is relinquished or the juvenile reaches twenty-one (21) years of age, whichever occurs first;

(b) The department of juvenile corrections shall be responsible for determining the placement of the convicted juvenile and such education, programming and treatment as it determines to be appropriate. However, court approval is required by the sentencing court prior to the department placing a convicted juvenile in a community residential setting;

(c) The state board of correction shall be a member of the convicted juvenile's treatment team. The state board of correction shall participate in staffings and shall provide supervision pursuant to section 20-219, Idaho Code, if the convicted juvenile is placed in a community residential setting by the department of juvenile corrections. During this period of supervision, the state board of correction shall not file a probation violation, but may petition the court to terminate the custody of the department pursuant to paragraph (d) of this subsection;

(d) While the convicted juvenile is in the physical custody of the department of juvenile corrections, if either the department or the state board of correction reasonably believes that the juvenile is failing to comply with all reasonable program requirements, the department or the state board of correction may petition the sentencing court to terminate the custody of the department. If the juvenile has successfully completed the program or is sixty (60)

days or less from turning twenty-one (21) years of age, the department of juvenile corrections shall return the convicted juvenile to the court for further disposition;

(e) Any recommendation made by the state board of correction or the department of juvenile corrections to the court regarding the convicted juvenile shall be in the nature of an addendum to the presentence report; and

(f) Upon the release of the juvenile by the department of juvenile corrections, its duties and obligations cease and custody of the convicted juvenile with the department is terminated.

(3) All time served under the custody of the department of juvenile corrections shall be credited toward the total sentence given the convicted juvenile. However, in no event may the total of the actual time spent by the convicted juvenile in the custody of the department, plus any adult sentence imposed by the court, exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(4) Upon the release of the convicted juvenile by the department of juvenile corrections of termination of department custody, the court may impose another period of retained jurisdiction pursuant to subsection 4 of section 19-2601, Idaho Code, relinquish jurisdiction and impose the remainder of the sentence with the state board of correction, or place the convicted juvenile on adult felony probation.

Title 19, Chapter 51

19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND EMPLOYMENT OF PEACE OFFICERS -- CERTIFICATION -- PENALTIES. (1) It shall be the duty of and the council shall have the power:

(a) To establish the requirements of minimum basic training that peace officers shall complete in order to be eligible for permanent employment as peace officers, and the time within which such basic training must be completed. One (1) component of minimum basic training shall be a course in the investigation and collection of evidence in cases involving an allegation of sexual assault or battery.

(b) To establish the requirements of minimum education and training standards for employment as a peace officer in probationary, temporary, part-time, and/or emergency positions.

(c) To establish the length of time a peace officer may serve in a probationary, temporary, and/or emergency position.

(d) To approve, deny approval or revoke the approval of any institution or school established by the state or any political subdivision or any other party for the training of peace officers.

(e) To establish the minimum requirements of courses of study, attendance, equipment, facilities of all approved schools, and the scholastic requirement, experience and training of instructors at all approved schools.

(f) To establish such other requirements for employment, retention and promotion of peace officers, including minimum age, physical and mental standards, citizenship, moral character, experience and such other matters as relate to the competence and reliability of peace officers.

(g) To certify peace officers as having completed all requirements established by the council in order to be eligible for permanent employment as peace officers in this state.

(h) To receive and file for record copies of merit regulations or local ordinances passed by any political subdivision.

(i) To maintain permanent files and transcripts for all peace officers certified by the council to include any additional courses or advanced courses of instruction successfully completed by such peace officers while employed in this state and to include the law enforcement employment history by agency and dates of service of the officer. Such information shall be made available to any law enforcement agency upon request when a person applies for employment at the requesting law enforcement agency.

(j) To allow a peace officer of a federally recognized Indian tribe within the boundaries of this state to attend the peace officer standards and training academy if said peace officer meets minimum physical and educational requirements of the academy. The Indian tribal law enforcement agency shall reimburse the peace officer standards and training academy for the officer's training. Upon satisfactory completion of the peace officer standards and training academy, the tribal peace officer shall receive a certificate of satisfactorily completing the academy.

(2) After January 1, 1974, any peace officer as defined in section 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected official or deputy serving civil process, the deputy director of the Idaho state police, or any person serving under a temporary commission with any law enforcement agency in times of natural or man-caused disaster declared to be an emergency by the board of county

commissioners or by the governor of the state of Idaho, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, or any peace officer acting under a special deputy commission from the Idaho state police, shall be certified by the council within one (1) year of employment; provided, however, that the council may establish criteria different than that required of other peace officers for certification of city police chiefs or administrators within state agencies having law enforcement powers who, because of the number of full-time peace officers they supervise, have duties that are primarily administrative. Any such chief of police or state agency administrator employed in such capacity prior to July 1, 1987, shall be exempt from certification.

(3) The council is designated as a criminal justice agency as defined in section 67-3012(7)(A)(ii), Idaho Code, for the purposes of obtaining and retaining confidential criminal justice information by means of criminal justice services as defined in section 67-3012(8), Idaho Code. Such information shall be used to provide for the certification, suspension or revocation of certification of peace officers and public safety personnel subject to certification by the council. The council may not record or retain any confidential criminal justice information without complying with the provisions of chapter 30, title 67, Idaho Code.

(4) No peace officer shall have or exercise any power granted by any statute of this state to peace officers unless such person shall have been certified by the council within one (1) year of the date on which such person commenced employment as a peace officer, except in cases where the council, for good cause and in writing, has granted additional time to complete such training. The council shall decertify any officer who is convicted of any felony or offense that would be a felony if committed in this state. The council may decertify any officer who:

- (a) Is convicted of any misdemeanor;
- (b) Willfully or otherwise falsifies or omits any information to obtain any certified status; or
- (c) Violates any of the standards of conduct as established by the council's code of ethics, as adopted and amended by the council.

All proceedings taken by the council shall be conducted in accordance with chapter 52, title 67, Idaho Code.

(5) Any law enforcement agency as defined in section 19-5101(c), Idaho Code, in which any peace officer shall resign as a result of any disciplinary action or in which a peace officer's employment is terminated as a result of any disciplinary action shall, within fifteen (15) days of such action, make a report to the council.

(6) The council shall, pursuant to the requirements of this section, establish minimum basic training and certification standards for county detention officers that can be completed within one (1) year of employment as a county detention officer.

(7) The council may, upon recommendation of the juvenile training council and pursuant to the requirements of this section, implement minimum basic training and certification standards for juvenile detention officers, juvenile probation officers, and employees of the Idaho department of juvenile corrections who are engaged in the direct care and management of juveniles.

(8) The council may, upon recommendation of the correction standards and training council and pursuant to the requirements of this section, establish minimum basic training and certification standards for state correction officers and for adult probation and parole officers.

(9) The council may, upon recommendation of a probation training advisory committee and pursuant to the requirements of this section, establish minimum basic training, continuing education and certification standards for misdemeanor probation officers, whether those officers are employees of, or by private sector contract with, a county.

(10) The council may reject any applicant for certification who has been convicted of a misdemeanor, and the council shall reject an applicant for certification who has been convicted of a felony, the punishment for which could have been imprisonment in a federal or state penal institution.

(11) As used in this section, "convicted" means a plea or finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred or withheld, and regardless of whether the plea or conviction is set aside or withdrawn or the case is dismissed or reduced under section 19-2604, Idaho Code, or any other comparable statute or procedure where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt or conviction.

19-5117. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND EMPLOYMENT OF COUNTY DETENTION OFFICERS -- CERTIFICATION -- PENALTIES. (1) It shall be the duty of and the council shall have the power:

(a) To establish the requirements of minimum basic training which county detention officers shall complete in order to be eligible for permanent employment as a county detention officer;

(b) To establish such basic training and certification so that it can be completed within one (1) year of employment as a county detention officer;

(c) To establish the requirements of minimum training standards for employment as a county detention officer in probationary, temporary, part-time and/or emergency situations;

(d) To certify county detention officers as having completed all requirements established by the council in order to be eligible for permanent employment as a county detention officer;

(e) To receive applications for financial assistance from counties and disburse available state funds to the counties for salaries and allowable living expenses or any part thereof, incurred while in attendance at approved training programs and schools, as authorized by the council. The annual reimbursement authorized by this section shall not exceed the funds available for such purpose and authorized by section 31-3201B, Idaho Code;

(f) To maintain permanent files and transcripts for all county detention officers certified by the council to include any additional courses or advance courses of instruction successfully completed by such county detention officers while employed in this state and to include the law enforcement employment history by agency and dates of service of the officer. Such information shall be made available to any law enforcement agency upon request when a person applies for employment at the requesting law enforcement agency.

(2) Any county detention officer employed after July 1, 1997, shall be trained and certified within one (1) year of employment. Current county detention officers, who were employed prior to July 1, 1997, shall comply with the training and certification provisions of this section by July 1, 1999.

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SUPREME COURT OF THE STATE OF IDAHO

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SUPREME COURT OF THE STATE OF IDAHO

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Idaho Juvenile Rules (I.J.R.)

Rule 10. CHANGE OF VENUE; TEMPORARY TRANSFER OF SUPERVISION.

(a) Change of Venue

(1) Conditions. A juvenile's residence is deemed to be a county in which the juvenile is actually residing, or a county in which a proceeding involving the juvenile under the Idaho Child Protective Act is currently pending. When a petition alleges the commission of a juvenile offense in a county other than the county of the juvenile's residence, venue may be changed upon order of the court where the offense is alleged to have occurred (sending court) to the county of the juvenile's residence (receiving court), upon the following conditions:

(A) the juvenile admits to the allegation, or the juvenile has been found by the Court to have committed the offense following an evidentiary hearing and to be within the purview of the J.C.A., and

(B) the sending court finds that change of venue will not impose unreasonable barriers of distance to any persons entitled to be heard. Upon satisfaction of the conditions set forth above, the receiving court must not refuse the change of venue, except upon a finding that the juvenile does not reside in the receiving county.

(2) Duties of Sending Court. Within seven days after entering the order changing venue, the sending court must:

(A) Order the case and all court records transferred to the magistrate's division of the district court of the county of the juvenile's residence; and

(B) Notify the following:

- i. the juvenile and the juvenile's parent(s) or custodian;
- ii. the receiving court;
- iii. the probation department in the sending and receiving counties;
- iv. the department of health and welfare, in appropriate cases;
- v. the public defender's office in the sending and receiving counties; and
- vi. the prosecuting attorney's office in the sending and receiving counties.

(3) Duties of Receiving Court. Upon receipt of the order for change of venue, the receiving court must:

(A) notify the juvenile and the juvenile's parent(s), guardian, or custodian of the date and time of the juvenile's next appearance;

(B) direct the juvenile and the juvenile's parent(s), guardian, or custodian to contact the probation office in the receiving county;

(C) appoint a public defender in the receiving county if the juvenile had public defender services in the sending county; and

(D) exercise jurisdiction over the case, including any motions such as motions of violations, dismissal and expungement.

(4) Return to Sending Court. Following entry of the order for change of venue by the sending court, if the juvenile withdraws the admission previously entered before the sending court, or the receiving court refuses the change of venue, then the case must be promptly returned to the sending court and the matter must be set for evidentiary hearing.

(5) Restitution. Whenever possible, the issue of restitution should be resolved in the sending county prior to the change of venue. If the issue of the amount of restitution is contested, it must be resolved by the court of the county where the offense occurred.

(b) Temporary Transfer of Supervision.

Upon issuance of an order amending the conditions of probation and authorizing supervision in another county, the probation department in the sending county must contact and forward its probation file and other relevant information to the probation department in the receiving county within 7 days. A temporary transfer of supervision is not a change of venue and shall not result in the opening of a court case in the receiving county agreeing to the transfer of supervision.

(effective July 1, 2019; amended April 15, 2020, effective July 1, 2020.)

Rule 11. INFORMAL ADJUSTMENT (J.C.A.)

The court, in exercising its discretion, may order an informal adjustment for any case filed under the Juvenile Corrections Act, upon such terms and conditions as the court may deem just and appropriate under the circumstances. The discretion of the court to impose an informal adjustment is not limited by the nature of the charge. The court, in its discretion, may impose or suspend detention as it deems appropriate, pursuant to an informal adjustment. Informal adjustments may be ordered at any stage of the proceedings after admission by the juvenile or finding by the court that the juvenile has committed an offense, upon notice to parties and the opportunity to be heard. The court may order a preliminary inquiry pursuant to I.C. Section 20-510 or a social report pursuant to I.C. Section 20-520 prior to an informal adjustment.

Rule 16. EXPANDING A JUVENILE CORRECTIONS ACT PROCEEDING TO A CHILD PROTECTIVE ACT PROCEEDING (J.C.A.) (See Addendum for amended Rule 16)

(a) If at any stage of a J.C.A. proceeding the court has reasonable cause to believe that a juvenile living or found within the state is neglected, abused, abandoned, homeless, or whose parent(s) or other legal custodian fails or is unable to provide a stable home environment, as set forth in I.C. Section 16-1603, the court may order the proceeding expanded to a C.P.A. proceeding or direct the Department of Health and Welfare to investigate the circumstances of the juvenile and his or her family and report to the court as provided in I.C. § 16-1616. Any order expanding the proceeding to a C.P.A. proceeding must be in writing and contain the factual basis found by the court to support its order. The order shall direct that copies of all court documents, studies, reports, evaluations, and other records in the court files, probation files, and juvenile corrections files relating to the juvenile/child be made available to the Department of Health and Welfare at its request.

(b) Upon expanding the proceeding to a C.P.A., the court may order the juvenile placed in shelter care under the C.P.A. if that is in the best interest of the juvenile and needed for the juvenile's protection. If the juvenile is placed in shelter care, a shelter care hearing under the C.P.A. must be held within 48 hours, excluding Saturdays, Sundays, and holidays, and notice thereof shall be given to the juveniles parents(s), guardian, or custodian, and to the Department of Health and Welfare.

(c) A copy of the order expanding a J.C.A. proceeding to a C.P.A. proceeding shall be given to the juvenile's parent(s), guardian, or custodian, the Idaho Department of Health and Welfare, the prosecuting attorney and other counsel of record, and the Department of Juvenile Corrections if the juvenile is currently under commitment to the Department, pursuant to these rules and the rules of civil procedure

(d) No further C.P.A. petition will be required. A petition may be filed to include other children that come within the jurisdiction of the C.P.A. but who are not before the court under the Juvenile Corrections Act. Any petition must be filed 14 days before the date set for the adjudicatory hearing. Any adjudicatory hearing pursuant to I.C. Section 16-1619 will be held within 30 days of the court's determination to expand the proceeding to a C.P.A. proceeding. A notice of the hearing will be served upon the parent(s), the Department of Health and Welfare, the juvenile, and the Department of Juvenile Corrections if the juvenile is currently under commitment to the Department, as though a petition under the C.P.A. has been filed. The burden of going forward with the evidence at the adjudicatory hearing shall remain with the prosecuting attorney.

(e) The proceeding under the J.C.A. will continue unless otherwise ordered by the court. The court may consolidate hearings under both the J.C.A. and the C.P.A. if the purposes of both acts can be served and the rights of the participants are not prejudiced

(f) The Department of Juvenile Corrections shall have standing as an interested party in the child protective action if the juvenile is in the custody of the Department.

(g) Form of order expanding the Juvenile Correction Act proceeding to a Child Protective Act proceeding. The order expanding the Juvenile Correction Act proceeding to a Child Protective Act proceeding shall substantially conform to the following format:

http://www.isc.idaho.gov/rules/forms/IJR_16-1_Form.doc.

(h) Form of order directing the Department of Health and Welfare to investigate. The order directing the Department of Health and Welfare to investigate the circumstances of the juvenile and his or her family shall substantially conform to the following:

http://www.isc.idaho.gov/rules/forms/IJR_16-2_Form.doc.

(Revised Rule 16 - Adopted August 21, 2006.)

Rule 17. SENTENCING HEARING (J.C.A.)

(a) At the time the court finds that a juvenile is within the purview of the J.C.A. under I.J.R. 15 or the juvenile pleads guilty (admits) to the charge (petition), or as soon thereafter as is practicable, the court shall set time and place for a sentencing hearing and give notice thereof to the juvenile and the parent(s), guardian, or custodian. In the event the time for the sentencing hearing is set in open court, notice of such hearing may be given to the parties verbally and placed upon the record. In the event such hearing is set at a later date, written notice thereof shall be given to the juvenile and the parent(s), guardian, or custodian in the same manner as a notice or summons of the initial J.C.A. hearing. With the consent of the juvenile and the juvenile's counsel the sentencing hearing may immediately follow the J.C.A. evidentiary hearing (trial).

(b) The sentencing hearing shall be an informal hearing in which the court may hear any relevant evidence from the prosecuting attorney; the juvenile; the parent(s), guardian, or custodian; or other investigator having knowledge of the juvenile so as to enable the court to make a considered disposition of the proceeding. The juvenile must be present at the sentencing hearing unless waived by the juvenile upon the advice of counsel after receiving the prior approval of the court.

(c) As a result of the sentencing hearing, the court shall enter a written decree together with findings of fact and conclusions of law finding the juvenile within the purview of the J.C.A. and imposing one or

more of the provisions authorized by I.C. Section 20-520. If the court determines probation or detention is required, it must be ordered at the time of sentencing wherein commitment to the Department of Juvenile Corrections occurred. In the event the juvenile is placed on probation, such order may include or incorporate by reference the terms, conditions, and requirements of probation in the written decree.

(d) In the event it is proposed by any person that a juvenile be placed in custody or detention outside of the state of Idaho, pursuant to the Interstate Compact on the Placement of Children set forth in I.C. Section 16-2102, the court shall first hold a hearing upon 10-day notice to all affected parties to determine whether equivalent facilities are available in the state of Idaho and whether the placing of the juvenile in custody or detention outside the state will be in the best interest of the juvenile or will produce undue hardship. At such hearing, any interested party may testify concerning these issues, and upon conclusion of the hearing, the court shall determine whether the juvenile should be detained or placed in custody outside of the state of Idaho.

(e) In accordance with the I.C. Section 20-520, and the Juvenile Justice Delinquency Prevention Act, a juvenile adjudicated of a status offense or as a habitual status offender may not be placed in detention or other secure confinement, including commitment to the Idaho Department of Juvenile Corrections, as a result of such adjudication. Such status offenders may not be the subject of an order establishing any discretionary or unscheduled detention time. Provided, however, following adjudication of a status offense a juvenile may be subject to detention if, after notice and hearing, the court finds that the juvenile offender has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception, and the court's order:

(1) identifies the valid court order that has been violated;

(2) specifies the factual basis for determining that there is reasonable cause to believe that the juvenile has violated such order;

(3) includes findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the juvenile in such a facility, with due consideration to the best interest of the juvenile;

(4) specifies the length of time, not to exceed 7 days, that the juvenile may remain in a secure detention facility or correctional facility, and includes a plan for the juvenile's release from such facility; and

(5) states that the order may not be renewed or extended.

The court may not issue a second or subsequent order described in this subsection relating to a juvenile unless the juvenile violates a valid court order after the date on which the court issues an order in this subsection.

(f) As a condition of probation, the sentencing court may order the juvenile to serve a specified period of discretionary detention time. "Discretionary detention time" means detention time to be served at the discretion of the probation officer as a sanction for violating a term or condition of probation. Discretionary detention time cannot be applied to status offenders. Discretionary detention time is to be served as follows:

(1) On receipt of a written statement of facts made under oath or affirmation by the probation officer showing reasonable cause to believe that the juvenile violated any term or condition of probation, a court may order, in writing, that the juvenile serve a specified number of days not to exceed 3 days of discretionary detention time.

(2) Any time served in detention as discretionary detention time must be credited against the period of discretionary detention time and the total detention time as ordered in the judgment.

(3) Nothing in this subsection limits the authority of a sentencing court to impose additional terms and conditions of probation including detention time.

(g) If, pursuant to I.C. Section 20-523, a written screening team report is compiled, it shall be presented to the court and be made available to the parties at least 48 hours prior to the sentencing hearing, excluding Saturdays, Sundays, and holidays.

(Amended June 17, 2019, effective July 1, 2019; amended April 15, 2020, effective July 1, 2020)

Rule 17A. CORRECTION OR MODIFICATION OF JUVENILE SENTENCE (J.C.A.)

(a) **Illegal Sentences.** The court may correct a sentence that is illegal from the face of the record at any time.

(b) **Modification of Terms and Conditions of Probation Based on Change of Circumstances.** The court maintains continuing jurisdiction of a juvenile case throughout any period of probation or informal adjustment and may, upon the motion of any party or on its own motion, modify or amend the terms and conditions of such probation or informal adjustment upon a showing that the circumstances of the juvenile or the juvenile's family have changed so as to justify a modification of such terms and conditions consistent with the rehabilitative intent of the Juvenile Corrections Act, Chapter 5, Title 20, Idaho Code. The court may not as a part of any such modification extend the length of the probationary term or increase the amount of detention originally ordered or suspended.

(c) **Credit for Time Served.** A motion to correct a court's computation of credit for time served may be made at any time. A juvenile shall receive credit for any detention time served prior to a judgment or

informal adjustment being entered if such detention time was for the offense or an included offense for which the judgment was entered. The remainder of any term of detention commences upon the pronouncement of a detention sentence and if thereafter, during such term, the defendant by any legal means is temporarily released from such detention and subsequently returned thereto, the time during which the juvenile was at large will not be computed as part of such term.

(Effective July 1, 2019.)

Rule 18. VIOLATION OF FORMAL PROBATION; VIOLATION OF INFORMAL ADJUSTMENT

(a) When a court has entered an order of formal probation or an informal adjustment order and a motion or petition, together with a sworn affidavit, is filed with the court by the prosecuting attorney alleging that the juvenile has violated the terms and conditions of probation or informal adjustment, the court shall set a hearing on the violation alleged.

(b) At the violation hearing, the burden of proof shall be upon the state by a preponderance of the evidence.

(c) Upon a finding by the court that the juvenile has violated the formal probation order or the informal adjustment order, the court may:

(1) Enter an order reinstating the juvenile on probation on additional terms and conditions;

(2) Enter an order imposing any suspended term of detention or suspended commitment to the Department of Juvenile Corrections PURSUANT TO Idaho Juvenile rule 19; or

(3) In the case of an informal adjustment, impose any sentence available to the court pursuant to the Idaho Juvenile Corrections Act.

Rule 19. STANDARDS AND PROCEDURES FOR COMMITMENT TO THE DEPARTMENT OF JUVENILE CORRECTIONS (J.C.A.)

(a) A juvenile offender may become eligible for commitment to the custody of the Department of Juvenile Corrections, if the juvenile's prior history or charged offense(s) contain underlying facts:

(1) of violence that either did or could reasonably have resulted in serious bodily injury or death to others;

(2) of a sexual nature;

(3) demonstrating a wanton and reckless disregard for the property rights of others such that release constitutes a substantial risk to the community; and/or

(4) demonstrating a pattern of misdemeanor or felony criminal behavior, escalating in its impact on public safety or the juvenile's safety or well-being over time.

(b) Prior to disposition on any offense for which a juvenile may be committed to the custody of the Department of Juvenile Corrections, the court shall order that a screening team convene to determine whether or not the actual risks posed to community safety by the juvenile offender can be adequately addressed in a community based setting or whether the risks posed to the public by the juvenile offender are such that the juvenile is in need of treatment programming within a secure setting available through the Department of Juvenile Corrections. The screening team shall include parents, custodians, or guardians of the juvenile, representatives from the County Juvenile Probation Office, the Idaho Department of Juvenile Corrections and the Idaho Department of Health and Welfare. In addition, the screening team should include the juvenile, the defense attorney, the prosecuting attorney, local school officials, and any other persons that the screening team may deem appropriate. Participants shall share relevant information concerning the juvenile offender with other screening team members. All such information shall be maintained as confidential pursuant to I.C.A.R. 32.

(c) The screening team shall have available a detailed history of the juvenile which shall include, but not be limited to:

- (1) history of mental health issues or substance abuse treatment;
- (2) the family's structure and dynamics;
- (3) parental, guardian or custodian engagement in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior;
- (4) the juvenile's academic performance and behavior in an educational setting;
- (5) prior intervention and treatment efforts by the family and/or the community;
- (6) prior offenses; and
- (7) current and prior risk/need assessments.

(d) The screening team shall evaluate whether community based programs or alternatives can adequately address the risks and needs identified. The screening team shall employ a strengths-based approach considering the juvenile's and family's strengths and include an evaluation of the juvenile's and parent's, guardian's or custodian's abilities, and capacities for engagement in such community based programs as may be identified. The screening team shall also evaluate any barriers that may exist with respect to such engagement. In making such evaluation the screening team shall determine whether or not there exist community based programs to address the juvenile's identified needs or whether such programs can be accessed in a setting other than the Department of

Juvenile Corrections. The screening team may also evaluate the relative cost-effectiveness of any options considered.

(e) The county probation officer or other court designee shall prepare a written report to the court summarizing the screening team's findings and recommendations. If the screening team does not reach consensus regarding its findings or recommendations, the written report shall contain a summary of the different opinions regarding risks, needs and recommendations. The written report shall be presented to the court and be made available to the parties at least 48 hours prior to the sentencing hearing, excluding Saturdays, Sundays, and holidays.

(f) Prior to issuing an order of commitment of a juvenile to the Department of Juvenile Corrections, the court shall make findings on the record as to the underlying facts and circumstances that were relied on in making the decision and the specific facts relied on to determine that a community based alternative was not appropriate.

(g) A juvenile under the age of twelve (12) years shall not be committed to the Department of Juvenile Corrections unless the court finds that there are extraordinary circumstances. The court may not commit a juvenile offender under the age of ten (10) years to the custody of the Department.

(Amended March 8, 1999, effective July 1, 1999; amended April 26, 2007, effective July 1, 2007; amended, effective February 1, 2009; amended, April 27, 2016, effective July 1, 2016, effective July 1, 2019; amended April 15, 2020, effective July 1, 2020.)

Rule 20. RELEASE FROM STATE CUSTODY (J.C.A.)

(a) Following the release of a juvenile from the custody of the Department of Juvenile Corrections, or before the juvenile's release if the court deems it appropriate, the court may hold a hearing pursuant to I.C. Section 20-533 to review the conditions of probation and determine whether the existing conditions should be amended or eliminated, or if additional conditions should be imposed. Written notice of the hearing shall be provided by the clerk of the court to the juvenile, parent(s), legal guardian or custodian, and any person who has been made party to the proceeding. Notice will be deemed sufficient if the clerk mails notice to the person's last known mailing address.

(1) At this hearing, the court may also order conditions to be complied with by the juvenile's parent(s), legal guardian or custodian, or any person having been made a party of the proceeding that the court deems to serve the best interest of the juvenile or the community.

(2) At this hearing, the juvenile, parent(s), or legal guardian are entitled to the same right of legal representation that would be afforded such persons as provided in I.C. Section 20-514.

(b) In the event a juvenile probation officer, as authorized by court order, establishes additional conditions of probation with which the juvenile offender must comply upon the juvenile's release from the custody of the Department of Juvenile Correction, the probation officer shall notify the juvenile at the time the additional conditions are imposed of the juvenile's right to request a hearing before the court to contest the additional conditions. Such notice shall be given to the juvenile in writing and shall also inform the juvenile that a request for hearing to contest the additional conditions of probation must be made in writing to the court within 14 days of receiving the written notice. If the juvenile timely requests a hearing, the clerk shall send written notice of the hearing to all the parties entitled to notice in paragraph (a) of this rule. The court shall have the authority to enter any order it could have under paragraphs (a) or (a)(1) of this rule, and the parties shall have the same right to counsel as provided in paragraph (a)(2) of this rule.

(c) Upon a subsequent violation of probation, the court may recommit the juvenile to the custody of the Department of Juvenile Corrections. In order to impose detention as a sanction for a probation violation, the court may only impose that detention previously suspended at the time of commitment to the Department's custody.

Rule 26. DISCRETIONARY WAIVER OF JURISDICTION UNDER THE JUVENILE CORRECTIONS ACT.

(a) Upon the filing of a written Motion to Waive Jurisdiction on a misdemeanor or felony charged under the Juvenile Corrections Act by the prosecuting attorney, the juvenile, or the court, the court shall:

1. Give written notice of the Waiver Hearing at least 10 days before the date of the hearing to the juvenile, the juvenile's parent(s), guardian, or custodian, prosecuting attorney, probation officer (if any) and Department of Juvenile Corrections district liaison. The notice shall inform the juvenile of his or her right to counsel. Service shall be made in the manner provided by I.J.R. 5.

2. Order a full and complete investigation of the circumstances of the alleged offenses and the factors as listed in I.C. Section 20-508 (8)(a) through (f) to be conducted by county probation, or such other agency or investigation officer designated by the court, who shall submit a written report to the court, prosecuting attorney and juvenile or counsel for the juvenile at least 5 days prior to the hearing.

3. The court shall make findings as to whether or not the juvenile should, in the discretion of the court, be waived under the Juvenile Corrections Act.

(b) At the hearing, the court may rely on the investigative report, the juvenile's criminal record in the state of Idaho, certified court records from other states and county probation records. The prosecuting attorney, juvenile, or attorney for the juvenile may present evidence in support of, or opposed to, the contents of the reports and records before the court and the waiver request. Each party shall have the right to present such evidence as may be relevant to the issue of waiver, and the court may consider such hearsay as may be contained in the investigative report, criminal records, or other relevant evidence submitted to the court.

(c) The juvenile may stipulate to waiver but said stipulation shall be reduced to writing or placed upon the record in open court.

(d) Upon waiver, the prosecuting attorney shall file a criminal complaint within 24 hours, excluding Saturdays, Sundays, or holidays, and the court shall remand the juvenile to the custody of the county sheriff and order that an initial appearance on the criminal complaint shall be held pursuant to I.C.R. 5. The juvenile shall be held without bond on a felony, or held pursuant to M.C.R. 13 on a misdemeanor, pending the initial appearance.

(Adopted March 8, 1999, effective July 1, 1999)

Rule 27. TRANSFER TO JUVENILE COURT.

(a) In the court's discretion, a misdemeanor citation naming a defendant who was under 18 years of age at the time of the alleged violation may be transferred to juvenile court and treated under the provisions of the J.C.A. The transfer request may be made by the juvenile, the juvenile's attorney, the prosecutor or upon the court's own motion. A party may make the request orally upon the record or in writing. The party making the request shall provide the court, in writing, with the name and address of the juvenile's parent or guardian. Either party may request that the transfer request be set for a hearing. If the court grants the request to transfer the case, the court shall enter a written order transferring the case to the juvenile court.

(b) Upon entry of the transfer order, the misdemeanor case shall be closed and a new juvenile case shall be opened. The citation shall be filed in the juvenile case together with any other documents filed in the misdemeanor case. The citation may serve as the petition, or the prosecutor may file a petition charging the same offense as in the citation. The written transfer order shall remain in the misdemeanor case file, and a copy of the transfer order shall be filed in the new juvenile case.

(c) The clerk shall set the new juvenile case for an admit/deny hearing on the juvenile court calendar. The clerk shall cause a notice of admit/deny hearing to be mailed by certified mail to the juvenile and the juvenile's parent or guardian. The hearing shall be set not less than 14 days from the mailing of the notice.

(d) The admit/deny hearing shall be conducted pursuant to I.J.R. 6. All other hearings and proceedings shall be conducted in accordance with the Juvenile Corrections Act and the Idaho Juvenile Rules.
(Adopted April 26, 2007, effective July 1, 2007.)

Rule 28. EXPUNGEMENT.

(a) A petition to expunge filed pursuant to I.C. § 20-525A shall apply only to actions pursuant to the Juvenile Corrections Act. It shall contain the name of the juvenile seeking expungement, name all agencies and their addresses with records the petitioner seeks to have expunged, and make evident the petitioner is in compliance with the provisions of I.C. 20-525A. The petition shall be filed in the county where a disposition was entered under oath and verified by the petitioner. A petition shall be filed in each case in which the petitioner seeks to have records expunged. If the petition is being filed pursuant to I.C. 20-525A(3) and no file exists, a new juvenile proceeding shall be opened upon the filing of the petition to expunge.

(b) Upon the filing of a petition to expunge the clerk shall set a hearing date and give notice to the petitioner, the prosecutor, any entity or person as requested by the petitioner, the prosecutor or as directed by the court. The prosecutor shall comply with the provisions of I.C. 19-5306. The hearing shall be set not less than 14 days from the filing of the notice of hearing. Cases involving the same petitioner may be joined for hearing.

(c) At the hearing or pursuant to stipulation the court shall consider any relevant evidence and make findings. Written findings of fact are not necessary. Upon a determination that the requirements of I.C. 20-525A have been met the court shall enter an order expunging the appropriate records.

(d) The clerk shall attach to the order a certificate of service to the agencies noted in the petition including the Department of Juvenile Corrections. The case will then be sealed and filed in a separate expunged record file and the case entered in the expungement index.

(e) There shall be no disclosure of any record in an expunged case file except as provided in Idaho Court Administrative Rule 32.
(Adopted April 26, 2007, effective July 1, 2007.)

Rule 39. SHELTER CARE HEARING (C.P.A.)

(a) The purpose of the shelter care hearing is to determine whether the child will be placed in or remain in shelter care pending the adjudicatory hearing.

(b) The court shall schedule a shelter care hearing whenever a child or alleged offender is removed from the home as described in I.J.R. 31(a), (b), and (d), or upon the written motion or petition of the petitioner with or without prior removal of a child or alleged offender.

(c) When a child is taken into custody as described in I.J.R. 31(a) or (d), the court must hold a shelter-care hearing within 48 hours, excluding weekends and holidays.

(d) When an alleged offender is removed from the home under I.J.R. 31(a), the court must hold a shelter-care hearing within 24 hours, excluding weekends and holidays.

(e) The Idaho Rules of Evidence, other than those regarding privileges, do not apply in a shelter-care hearing as provided in I.R.E. 101(e)(6).

(f) The shelter-care hearing may be continued for a reasonable time by request of the parent(s), guardian, or custodian of the child upon entry of a waiver of the statutory time limits for setting the shelter-care hearing. The court may also grant a reasonable continuance to all other parties or participants upon good cause shown.

(g) At the time of the shelter-care hearing, the court shall advise the child, if present, and the parent(s), guardian, or custodian of their right to be represented by an attorney and, if financially unable to hire an attorney, of their right to be represented by a court-appointed attorney. The court should verify that each party has a copy of the petition and they are advised of the allegations therein; the purpose and scope of the hearing; the possible consequences of the proceedings, including termination of parental rights; the right of the parties to present evidence and to cross-examine witnesses regarding whether the child the care of the department; and that failure to appear at future hearings could result in a finding that the petition has been proved, issuance of an order adjudicating that the child is in need of protection or services, and an order transferring permanent legal and physical custody of the child to another.

(h) The shelter-care hearing in its entirety shall be placed upon the record, and the general public shall be excluded in the manner set forth in I.J.R. 52.

(i) Pursuant to I.C. § 16-1615(5), and following receipt of evidence at the shelter care hearing, the court shall enter an order of shelter care/protective order if shown that:

(1) A petition has been filed; and

(2) Reasonable cause exists to believe that the child comes within the jurisdiction of the C.P.A.; and

(3) The department made reasonable efforts to eliminate the need for shelter care but the efforts were unsuccessful; or the department made reasonable efforts to eliminate the need for shelter care but was not able to safely provide preventative services; and

(4) The child could not be placed in the temporary sole custody of a parent having joint legal or physical custody; and

(5) It is contrary to the welfare of the child to remain in the home; and

(6) It is in the best interest of the child to remain in shelter care pending the adjudicatory hearing.

The court's findings as to reasonable efforts to prevent removal shall be in writing, and case-specific. If the shelter care order is the first order sanctioning removal of the child from the home, the court shall make written, case-specific findings that remaining in the home is contrary to the child's welfare and that vesting custody with the department or other authorized agency is in the best interest of the child.

(j) The court may enter a protective order as defined in I.C. § 16-1602(28), in addition to the shelter care order or instead of the shelter care order if it is shown that:

(1) Reasonable cause exists to believe the child comes within the purview of the C.P.A.; and

(2) A reasonable effort to prevent placement of the child outside the home could be effected by a protective order safeguarding the child's welfare.

(k) The court shall enter its order within 24 hours. If the court enters an order placing the child in shelter care, then the court must set the adjudicatory hearing as soon as possible and not more than 30 days after the filing of the Child Protective Act petition, or the date the court orders a Juvenile Corrections Act case expanded to a Child Protective Act case, or service of the order of removal, whichever occurs later. If the court does not find that the child should remain in shelter care, the court may return the child to the home under a protective order, which will safeguard the child's health, safety or welfare, or may dismiss the petition.

(l) In making the determination as to whether shelter care of the child is required, the court shall consider any relevant facts consistent with subsection (i) of this rule, but generally the existence of any of the following facts will justify ordering temporary shelter care of the child:

(1) The child is in immediate need of medical treatment; or

(2) The child is seriously endangered in the child's surroundings and prompt removal appears to be necessary for the child's immediate protection; or

(3) The evidence indicates a danger that some action may be taken which would deprive the court of jurisdiction over the child; or

(m) At the shelter care hearing, or at any other time, upon notice and motion by any party, the court may make the following determinations, which shall temporarily suspend further efforts to reunify the child who is the subject of the action with the child's parent, pending further order of the court:

(1) when a termination of parental rights petition has been filed regarding this child; or

(2) there is reason to believe that aggravated circumstances exist; or

(3) the parental rights of the parent to a sibling have been terminated involuntarily.

(Revised Rule 39 - adopted August 21, 2006; amended April 26, 2007, effective July 1, 2007; amended April 27, 2012, effective July 1, 2012, amended April 24, 2013, effective July 1, 2013; amended March 29, 2016, effective July 1, 2016.)

Rule 41. ADJUDICATORY HEARING (C.P.A.)

(a) The purpose of the adjudicatory hearing is to determine: (1) whether the child is within the jurisdiction of the court under the Child Protective Act as set forth in I.C. §§ 16-1603; and (2) if jurisdiction is found, to determine the disposition of the child. The court may also determine whether aggravated circumstances exist, if aggravated circumstances were alleged in the petition or raised by written motion with notice to the parents prior to the adjudicatory hearing. The court may make an aggravated circumstances determination at any time after the adjudicatory hearing if aggravated circumstances is raised by written motion with notice to the parents prior to the hearing.

(b) The hearing shall be scheduled as set forth in I.C. § 16-1619. The hearing may not be continued more than 60 days from the date the child was removed from the home, unless the court has made case-specific, written findings as to whether the department made reasonable efforts to prevent the need to remove the child from the home.

(c) The hearing shall be conducted in an informal manner. The Idaho Rules of Evidence apply to the portion of the hearing where jurisdiction and/or aggravated circumstances is determined. The Idaho Rules of Evidence do not apply to disposition or any other portion of the hearing.

(d) In the event the court finds the child is within the jurisdiction of the court under the Child Protective Act, it shall make findings of fact and conclusions of law indicating the basis of jurisdiction.

(e) If the court finds that the child is within the jurisdiction of the court under the Child Protective Act, and if the court places the child in the custody of the department, and if the court does not find that the parent subjected the child to aggravated circumstances, then the court shall make written, case-specific findings that the department made reasonable efforts to eliminate the need for shelter care but the efforts were unsuccessful or that the department made reasonable efforts to eliminate the need for shelter care but was not able to safely provide preventative services.

(f) If the adjudicatory decree is the first order of the court sanctioning removal of the child from the home, the court shall make a written, case-specific finding that remaining in the home is contrary to the welfare of the child, or, in the alternative, removal from the home is in the best interest of the child.

(g) If the court finds that the child is within the jurisdiction of the court under the Child Protective Act, and if the court vests legal custody of the child in the department, and the court does not find that the parent subjected the child to aggravated circumstances, then the court shall order the department to prepare a written case plan, to be filed with the court and served upon the parties five days prior to the hearing on the case plan. The department shall consult with the guardian ad litem and the child's parents in preparing the plan.

(h) If the court finds that the child is within the jurisdiction of the court under the Child Protective Act, and the court places the child under the protective supervision of the department, then the court shall order the department to prepare a written case plan, to be filed with the court and served upon the parties five days prior to the hearing on the case plan. The department shall consult with the guardian ad litem and the child's parents in preparing the plan.

(i) If the court finds that the child is within the jurisdiction of the court under the Child Protective Act, and finds that the parent has subjected the child to aggravated circumstances, then the court shall order the department to prepare a written permanency plan, to be filed with the court and served upon the parties five days prior to the hearing on the permanency plan. The department shall consult with the guardian ad litem, and the child's parents in preparing the plan.

(Revised Rule 41 - adopted August 21, 2006; amended April 26, 2007, effective July 1, 2007, amended April 24, 2013, effective July 1, 2013.)

Rule 53. RELEASE OF INFORMATION (C.P.A.) (J.C.A.) A court shall not disclose any of the contents of a case file of any action brought under the Juvenile Corrections Act or the Child Protective Act, nor other records of such proceedings, except as authorized under Rule 32 of the Idaho Court Administrative Rules and I. C. § 16-1626 (addressing the disclosure of judicial records.)

(Revised Rule 53 - adopted August 21, 2006).

Rule 54. MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT UNDER I.C. § 20-511A.

(a) As used in this rule, ‘interested parties’ means:

(1) in Juvenile Corrections Act proceedings, the juvenile, the juvenile’s parents, guardians and custodians, the juvenile’s counsel, the prosecuting attorney, the department of health and welfare, the department of juvenile corrections, county probation and any other agencies or persons designated by the court.

(2) in Child Protective Act proceedings, the child, the child’s parents, guardians and custodians, the child’s counsel if any, the child’s guardian ad litem if any, the attorney general or prosecuting attorney appearing in the case, the department of health and welfare, and any other agencies or persons designated by the court.

(b) When the court has reason to believe that the conditions specified in I.C. § 20-511A(1)(a) and (b) are present, the court may order the department of health and welfare to submit appropriate mental health assessments and a plan of treatment for the court’s approval. The order shall set a time for the submission of the mental health assessment and plan of treatment, which time may be extended for good cause. Notice of the order shall be given to all interested parties. The order shall give notice to the parents of the juvenile or child that initial costs of the preparation of the assessment and plan of treatment, and of any additional evaluation and/or recommendations under Idaho Code § 20-511A(3) and subsection (e) of this rule, may be borne by the department of health and welfare, but that, pursuant to I.C. § 20-511A(5), these costs and all costs associated with assessment and treatment shall be the responsibility of the parents according to their ability to pay based upon the sliding fee scale established pursuant to I.C. § 16-2433.

(c) At any time after determining that there is reason to believe that the conditions specified in I.C. § 20-511A(1)(a) and (b) are present, the court may order the convening of a screening team consisting of representatives from the department of health and welfare, county probation, local school officials, teen early intervention specialists as provided for under I.C. § 16-2404A, the department of juvenile corrections

and/or other agencies or persons designated by the court. The screening team shall review the mental health assessment and plan of treatment and any other relevant information and make written recommendations to the court. Any parents or guardians of the juvenile or child who are available shall be included in the screening team and consulted with regard to the plan of treatment. The order shall set a time for the submission of the written recommendations, which time may be extended for good cause. The order shall designate a leading member of the screening team, who shall have the responsibility for scheduling meetings and submitting the written recommendations of the screening team to the court. Notice of the order shall be given to all interested parties.

(d) The court may:

(1) Order any agencies that have treated or had custody of the juvenile or child to release any pertinent information or records to the department of health and welfare for the purpose of mental health assessment and preparation of a plan of treatment;

(2) Order the department of health and welfare, county probation, school officials and the department of juvenile corrections to release all pertinent information regarding the juvenile or child to the court and and/or the screening team; and

(3) Require the parents or guardians of the juvenile or child, and where appropriate require the juvenile or child, to allow information pertinent to the assessment or treatment of the child to be released to the department of health and welfare, the court and/or the screening team.

(e) If the court, after receiving the mental health assessment and plan of treatment submitted by the department of health and welfare and any recommendations from the screening team, determines that additional information is necessary to determine whether the conditions specified in I.C. § 20-511A(1)(a) and (b) are present, or to determine an appropriate plan of treatment for the juvenile, the court may order an evaluation and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist, with the expenses of such evaluation and/or recommendations to be borne by the Department of Health and Welfare

(f) After receiving the mental health assessment and plan of treatment from the department of health and welfare, any written recommendations from the screening team and any additional evaluations or recommendations for treatment, the court may make a determination of whether the conditions specified in I.C. § 20-511A(1)(a) and (b) are present. If the court finds that such conditions are present, the court shall order mental health treatment in accordance with a plan of treatment as approved or modified by the court. However, the court shall first hold a

hearing before making such determination or entering such order if: (1) the court determines that a hearing would be helpful in making such determinations or fashioning the order; or (2) any interested party objects to the entry of such a determination or order; or (3) in-patient or residential treatment would be required as part of the plan of treatment, unless the hearing is waived by the juvenile or child and the parents or guardians of the juvenile or child. Notice of the hearing shall be given to all interested parties.

(g) At the hearing, the court shall consider the mental health assessment and plan of treatment submitted by the department of health and welfare, the recommendations of the screening team and any additional evaluation or recommendations for treatment. The parties may present evidence in support of, or opposed to, the information from any of these sources. Each party shall have the right to present any relevant evidence on the issues of: (1) whether the conditions specified in I.C. § 20-511A(1)(a) and (b) are present; and (2) what should be included in the plan of treatment, if any, ordered by the court.

(h) At the conclusion of the hearing, the court shall determine whether the conditions specified in I.C. § 20-511A(1)(a) and (b) are present. If the court determines that such conditions are present, the court shall order mental health treatment for the juvenile or child in accordance with the plan of treatment as approved or modified by the court. The court shall not order in-patient or residential treatment unless the court determines by clear and convincing evidence that the conditions specified in I.C. § 20-511A(1)(a) and (b) are present and that such treatment is required.

(i) Where the procedures set forth in I.C. § 20-511A and this rule are initiated in a Juvenile Corrections Act proceeding, any communications made by the juvenile to any person participating in an assessment, evaluation or preparation of a plan of treatment for the juvenile, and made for the purpose of such assessment, evaluation or preparation of a plan of treatment, shall not be used against the juvenile for any purpose in the evidentiary hearing in the Juvenile Corrections Act proceeding

(j) Forms.

(1) An order for mental health assessment and preparation of a plan of treatment under subsection (b), and for the convening of a screening team under subsection (c), shall be in substantially the following form: http://www.isc.idaho.gov/rules/forms/IJR_54-1_Form.doc.

(2) The form for an order for an additional assessment and recommendations under subsection (e) shall be in substantially the following form:

http://www.isc.idaho.gov/rules/forms/IJR_54-2_Form.doc.

(3) The order for a plan of treatment under subsections (f) and (h) shall be in substantially the following form:

http://www.isc.idaho.gov/rules/forms/IJR_54-3_Form.doc.

(Adopted August 4, 2005, effective August 15, 2005; amended April 26, 2007, effective July 1, 2007.)

Idaho Court Administrative Rule

Rule 32. RECORDS OF THE JUDICIAL DEPARTMENT – EXAMINATION AND COPYING – EXEMPTION FROM AND LIMITATIONS ON DISCLOSURE.

(a) Statement of policy. This rule is adopted pursuant to the Supreme Court’s authority to control access to court records, as recognized in the Idaho Public Records Act, I.C. § 74-104. The public has a right to access the judicial department’s declarations of law and public policy, and to access the records of all proceedings open to the public. This rule provides for access in a manner that:

- (1) Promotes accessibility to court records;
- (2) Supports the role of the judiciary;
- (3) Promotes governmental accountability;
- (4) Contributes to public safety;
- (5) Minimizes the risk of injury to individuals;
- (6) Protects individual privacy rights and interests;
- (7) Protects proprietary business information;
- (8) Minimizes reluctance to use the court system;
- (9) Makes the most effective use of court and clerk of court staff;
- (10) Provides excellent customer service; and
- (11) Avoids unduly burdening the ongoing business of the judiciary.

In the event of any conflict this rule shall prevail over any other rule on the issue of access to judicial records.

(b) Definitions: As used in this Rule:

- (1) “Custodian” means the person defined in paragraph (j)(2) of this Rule.
- (2) “Custodian judge” means the Justice, Judge or Magistrate defined in paragraph (j)(3) of this Rule.
- (3) “Personnel” means justices, judges, magistrates, trial court administrators, clerks of the district court and staff of a court.
- (4) “Court record” includes:

- (A) Any document, information or other thing that is filed, docketed, or lodged by a court or clerk of court in connection with a judicial proceeding;
- (B) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in an automated case management system created by or prepared by the court or clerk of court that is related to a judicial proceeding, including existing case management system reports.
- (C) Any writing, as defined in I.C. § 74-101, containing information relating to the conduct or administration of the public's business, prepared, owned, used or retained by the judicial branch, including the courts, the Administrative Office of the Courts, and the Judicial Council; by the Idaho State Bar; by the Idaho Bar Commission; or by the District Magistrates Commissions.
- (5) "Physical record" means a judicial branch record, including a court record, that exists in physical form, irrespective of whether it also exists in electronic form.
- (6) "Electronic form" means a court record that exists as:
- (A) Electronic representations of text or graphic documents;
- (B) An electronic image, including a video image, of a document, exhibit or other thing;
- (C) Data in the fields or files of an electronic database or the case management system; or
- (D) An audio or visual recording, analog or digital, of an event or notes in an electronic file from which a transcript of an event can be prepared; irrespective of whether it also exists in physical form.
- (7) "Remote access" means the ability whereby a person may electronically search, examine and copy court information maintained in a court record by means of access via the Internet or other publicly available telecommunication mechanism.
- (8) "Bulk Distribution" means the distribution of all, or a significant subset of the information in court records in electronic form, as is, and without modification or compilation.
- (9) "Case management system" means the court technology program, and other technologies that assist in the efficient management of the courts or that improve access to the courts and court records.
- (10) "Compiled Data Information" means information that is derived from the selection, aggregation or reformulation by the court

of some of the information from more than one individual court record.

(11) “Redaction” means that personal data identifiers will be omitted or obscured in the manner specified in Idaho Rule of Electronic Filing and Service 15, Idaho Rule of Civil Procedure 2.6, and Idaho Rule of Family Law Procedure 218.

(c) Applications. This Rule shall apply to all court records existing on or after the date of adoption of this Rule. Provided, this Rule shall not prevent access to records, otherwise exempt from disclosure by the following persons in the following situations:

(1) If approved by the custodian judge, or the custodian in the case of any record in the judicial council, federal, state and local officials or their agent examining a judicial record in the exercise of their official duties and powers; however, requests for numerous records or records from more than one county must be approved by the Chief Justice.

(2) Parties to an action and their attorney examining the court file of the action, unless restricted by order of the court, except as limited in paragraphs (g)(12), (15) and (17)(F). In addition, parties may authorize release of their own court records directly to a third party.

(3) Disclosure by the custodian of statistical information that is not descriptive of identifiable persons.

(4) Employees shall have access to their own personnel files.

(5) Judges, clerks, trial court administrators, or other staff employed by or working under the supervision of the courts who are acting within the scope of their duties.

(6) Guardians ad litem and court visitors in guardianship and conservatorship cases shall have access to the case information sheet in those cases, unless restricted by order of the court.

(d) Access to Court Records, Examination and Copying. Except as provided in paragraphs (g) and (i), the following are subject to examination, inspection and copying. The Supreme Court may provide such access to these records through terminals at judicial branch facilities or on-line from any remote location over the Internet.

(1) Litigant/party indexes to cases filed with the court;

(2) Listings of new case filings, including the names of the parties;

(3) The chronological case summary of events;

(4) Calendars or dockets of court proceedings, including case numbers and captions, date and time of hearings, and location of hearings;

- (5) Minutes, orders, opinions, findings of fact, conclusions of law, and judgments of a court and notices of the clerk of the court;
- (6) Transcripts and recordings of all trials and hearings open to the public;
- (7) Pleadings, motions, affidavits, responses, memoranda, briefs and other documents filed or lodged in a case file;
- (8) Administrative or other records of the clerk, justice, judge, magistrate or staff of the court unless exempt from disclosure by statute, case law, or court rule; and
- (9) A court record that has been offered or admitted into evidence in a judicial action or that a court has considered as evidence or relied upon for purposes of deciding a motion; except that, before final disposition by the trial court, access to any exhibit shall be allowed only with the permission of the custodian judge subject to any conditions set by the custodian judge and shall take place under the supervision of the office of the court clerk. After final disposition by the trial court, the custodian judge may set reasonable conditions for access to exhibits admitted or offered. The public shall not have access at any time to items of contraband or items that pose a health or safety hazard; for example, drugs, weapons, child pornography, toxic substances, or bodily fluids, without permission of the custodian judge.

(e) Bulk distribution. Bulk distribution of electronic court data is not allowed. However, at its discretion, the Supreme Court may grant requests for scholarly, journalistic, political, governmental, research, evaluation, or statistical purposes where the identification of specific individuals is ancillary to the request.

(f) Compiled Information. Any member of the public may request copies of existing compiled information that consists solely of information that is not exempt from disclosure. Case management reports and information shall be exempt from disclosure until final approval by the Supreme Court of the advancing justice time standards. In addition, the Supreme Court may compile and provide the information if it determines, in its discretion, that the resources are available to compile the information and that it is an appropriate use of public resources. The Supreme Court may delegate to its staff the authority to make the initial determination as to whether to provide the compiled information.

Compiled information that includes information to which public access has been restricted may be requested from the Supreme Court by any member of the public. The request shall:

- (1) identify what information is sought,

(2) describe the purpose for requesting the information and explain how the information will benefit the public interest or public education, and

(3) explain provisions for the secure protection of any information requested to which public access is restricted or prohibited.

The response to the request shall be made by the Supreme Court within ten (10) working days following the date of the request.

(g) Court records exempt from disclosure. Except as provided in paragraph (h) of this rule, court records specified below are exempt from disclosure. Any willful or intentional disclosure or accessing of a sealed or exempt court record, not otherwise authorized under this rule, may be treated as a contempt of court.

(1) Documents and records to which access is otherwise restricted by state or federal law;

(2) Pre-trial risk assessments and pre-sentence investigation reports, except as provided in Idaho Criminal Rule 32;

(3) Affidavits or sworn testimony and records of proceedings in support of the issuance of search or arrest warrant pending the return of the warrant;

(4) Unreturned search warrants;

(5) Unreturned arrest warrants, except bench warrants, or summonses in a criminal case, provided that the arrest warrants or summonses may be disclosed by law enforcement agencies at their discretion;

(A) An “arrest warrant” is a warrant issued for the arrest and detention of a defendant at the initiation of a criminal action.

(B) A “bench warrant” is a warrant issued for the arrest and detention of a defendant who has already appeared in a criminal action, and it would include a warrant issued for failure to appear at a hearing or trial, a warrant issued for violation of the conditions of release or bail, and a warrant issued for a probation violation.

(6) Unless otherwise ordered by the custodian judge, applications made and orders granted for the interception of wire, electronic or oral communications pursuant to Idaho Code § 18-6708, recordings of intercepted communications provided to the court, and reports made to the court regarding such interceptions under Idaho Code § 18-6708(7);

(7) Except as provided by Idaho Criminal Rules or statutes, records of proceedings and the identity of jurors of grand juries;

(8) Except as provided by the Idaho Criminal Rules or Idaho Rules of Civil Procedure, the names of jurors placed in a panel for a trial of an action and the contents of jury qualification forms and jury questionnaires for these jurors, unless ordered to be released by the presiding judge;

(9) Juvenile court records as herein after provided:

(A) All court records of Child Protective Act proceedings.

(B) In Juvenile Corrections Act cases filed before July 1, 2017, all court records of Juvenile Corrections Act proceedings on a petition filed under I.C. § 20-510 pending an admit/deny hearing held pursuant to Rule 6, I.J.R. to permit the parties to request that the court consider, or permit the court to consider on its own motion, closing the records and files. Thereafter the court records shall be open unless the court enters an order exempting them from disclosure. At the admit/deny hearing the court shall determine whether the court records shall remain exempt from disclosure as provided in 1. and 2. below:

1. Court records of Juvenile Corrections Act proceedings brought against a juvenile under the age of fourteen (14), or brought against a juvenile fourteen (14) years or older who is charged with an act that would not be a felony if committed by an adult, shall be exempt from disclosure if the court determines by a written order in each case that the records should be closed to the public.

2. Court records of Juvenile Corrections Act proceedings brought against a juvenile fourteen (14) years or older who is charged with an act which would be a felony if committed by an adult, shall be exempt from disclosure if the court determines upon a written order made in each case that extraordinary circumstances exist which justify that the records should be confidential. If the juvenile is not found to have committed an act which would be a felony if committed by an adult or the charge is reduced to allege an act which would not constitute a felony if committed by an adult, all existing and future case records and documents shall be exempt from disclosure if the court determines by written order in each case that the court records should be closed to the public.

(C) In Juvenile Corrections Act cases filed on or after July 1, 2017, all court records of Juvenile Corrections Act proceedings on a petition filed under I.C. § 20-510 except as provided in 1, 2, and 3 below:

1. The court may release juvenile court records if the court finds, upon motion by the prosecuting attorney, interested party, or other interested persons, that the public's interest in the right to know outweighs the adverse effect of the release of the records on the juvenile's rehabilitation and competency development. In making this decision, the court may consider the following factors:

- a. Age of the juvenile;
- b. Seriousness of the offense;
- c. Whether the offense deals with persons or property;
- d. Prior record of the juvenile;
- e. The juvenile's risk to reoffend; and
- f. The impact on the victim or victims.

2. The following individuals or entities may inspect juvenile court records without a court order unless otherwise prohibited by law:

- a. Probation officers;
- b. Law enforcement officers;
- c. The Department of Juvenile Corrections;
- d. The Department of Correction;
- e. The Department of Health and Welfare pursuant to its statutory responsibilities in title 16, chapter 16; title 16, chapter 24; or title 20, chapter 5, Idaho Code.

3. The victim of misconduct is entitled to receive:

- a. The name, address and telephone number of the juvenile offender involved;
- b. the name of the juvenile offender's parents or guardians, and their addresses and telephone numbers;
- c. The petition, the decree, and orders of restitution;
- d. Any other information as provided in title 19, chapter 53, Idaho Code.

(D) Notwithstanding any other provision of paragraph (g)(9) of this rule, reports prepared pursuant to I.C. § 20-520(1), and other records and reports described in paragraph (g)(17) of this rule are exempt from disclosure.

(E) Notwithstanding any other provision of paragraph (g)(9) of this rule, the court shall make available upon the written request of a superintendent or an employee of the school district authorized by the board of trustees of the school district, the facts contained in any records of a juvenile maintained under Chapter 5, Title 20, Idaho Code. If a request is made to examine

records in courts of multiple districts, it shall be ruled upon by the Chief Justice.

(10) Mental commitment case records; provided, the court may disclose these records when consented to by the person identified or his or her legal guardian, or the parent if the individual is a minor. The court in its discretion may make such records available to the spouse, or the immediate family of the person who is the subject of the proceedings;

(11) A uniform citation (the citation only, not the case type); however courts may share the citation with federal, state, and local officials or their agents in the exercise of their official duties and powers.

(12) Adoption records and records of proceedings to terminate the parent and child relationship under Chapter 20 of Title 16, Idaho Code, except that an adopted person or a child whose parental rights were terminated may obtain non-identifying medical information in all cases, and the court may also in its discretion make information from the records available, upon such conditions as the court may impose, to the person requesting the record, if the court finds upon written verification of a medical doctor a compelling medical need for disclosure;

(13) All records of proceedings relating to the consent required for abortion for minors brought pursuant to I.C. 18-609A(1) or (3);

(14) All records of proceedings relating to the judicial authorization of sterilization procedures pursuant to I.C. 39-3901;

(15) Documents filed or lodged with the court in camera;

(16) Protection order petitions and related records, maintained pursuant to either the domestic violence crime prevention act or chapter 79, title 18 of the Idaho Code, except orders of the court;

(17) Records maintained by a court that are gathered at the request or under the auspices of a court (other than records that have been admitted in evidence);

(A) to determine an individual's need for counseling, rehabilitation, treatment or assistance with personal conflicts;

(B) to assist in assigning an appropriate disposition in the case, including the ADR screening report and screening reports prepared by Family Court Service Coordinators or their designees;

(C) to provide the court with a recommendation regarding the custody of minor children;

(D) to provide a court with a psychological evaluation of an individual;

- (E) to provide annual or other accountings by conservators and guardians, except to interested parties as defined by Idaho law;
- (F) to provide personal or identifying information on individuals for internal court use, including case information sheets filed pursuant to Idaho Rule of Civil Procedure 3(d) or Idaho Rule of Family Law Procedure 201, and victim information/restitution sheets.
- (18) A reference list of personal data identifiers or an unredacted copy of a document filed pursuant to Idaho Rule of Electronic Filing and Service 15, Idaho Rule of Civil Procedure 2.6 or Idaho Rule of Family Law Procedure 218; however, courts will share the reference list or unredacted copy with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.
- (19) All court filings, including attachments, in guardianship or conservatorship proceedings whether temporary or permanent, and in proceedings involving a protective arrangement under I.C. § 15-5-409, and whether for an adult, a minor, or a developmentally disabled person, except to interested persons as defined in section 15-1-201, Idaho Code, guardians ad litem, court visitors, or any monitoring entity as defined by Idaho law, or any attorney representing any of the foregoing; provided, however, the following shall not be exempt from disclosure:
- (A) the register of actions for the case;
 - (B) letters of guardianship and letters of conservatorship, and any supplemental orders, decrees or judgments describing, limiting, or expanding the rights and duties of the guardian or conservator;
 - (C) any order by the court regarding bond by a conservator, and the conservator's bond;
 - (D) any order, decree, or judgment dismissing, concluding, or otherwise disposing of the case.
- (20) The records in cases involving child custody, child support, and paternity, except that officers and employees of the Department of Health and Welfare shall be able to examine and copy such records in the exercise of their official duties. Other exceptions to this rule are that the register of actions shall be available to the public, and a redacted copy of any order, decree or judgment issued in the case shall be available to the public. However, no redacted copy of any order, decree or judgment must be prepared until there is a specific request for the document. Provided further that any person may request that the court make other records in the case available for

examination and copying. Any individual may make the request by filing a court-provided form. When the court receives such a request, it shall promptly review the records in the case and shall make the records available except for those records or portions of records that allege abuse, abandonment or neglect of a child, or which the court determines would inflict undue embarrassment to or put at risk a person referenced in the record who was a child at the time of the filing of the record, or which are exempt from disclosure under the other provisions of Supreme Court rules.

- This subsection (g)(20) shall apply only to records in cases filed on or after July 1, 2012, and to records in cases in which a motion to modify an order, decree or judgment was filed on or after July 1, 2012.

(21) Records of judicial work product or drafts, including all notes, e-mail, memoranda or drafts prepared by a judge or a court-employed attorney, law clerk, legal assistant or secretary;

(22) Personnel records, application for employment and records of employment investigations and hearings, including, but not limited to, information regarding sex, race, marital status, birth date, home address, telephone number, applications, testing and scoring materials, grievances or complaints against an employee, correspondence, and performance evaluations; provided the following are not exempt from disclosure: a public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace, employing agency, and any adverse official action taken against an employee as a result of a grievance or complaint (except a private letter of reprimand), and after such action is taken (except when the action is a private letter of reprimand), the record of any investigation and hearing leading to the action;

(23) Applications, testing and scoring to be included on a court maintained roster;

(24) Computer programs and related records, including but not limited to technical and user manuals, which the judicial branch has acquired and agreed to maintain on a confidential basis;

(25) Records maintained by the state law library that link a patron's name with materials requested or borrowed in the patron's name with a specific subject about which the patron has requested information or materials;

(26) Allegations of attorney misconduct received by the Idaho State Bar and records of the Idaho State Bar relating to attorney discipline,

except where confidentiality is waived under the Idaho Bar Commission Rules;

(27) All records relating to applications for permission to take the Idaho bar examination or for admission to practice as exempted from disclosure in the Idaho Bar Commission Rules;

(28) All records and records of proceedings, except the identity of applicants for appointment to judicial office, of the Idaho Judicial Council or any District Magistrates Commission pertaining to the appointment, performance, removal, disability, retirement or disciplining of judges or justices. Provided, however, that the record of a disciplinary proceeding filed by the Judicial Council in the Supreme Court loses its confidential character upon filing;

(h) Permissive Release of Judicial Decision in Exempted Categories. Records of courts' determinations in proceedings exempt from disclosure under (g) of this rule may, by direction of the court issuing the determination, be subject to inspection, examination and copying in a manner that preserves the anonymity of the participants to the proceeding. In particular, the Supreme Court and the Court of Appeals may provide copies of their rulings in appeals from proceedings exempt from disclosure under paragraph (g) by using "John Doe/Jane Doe" designations or other anonymous designations in documents made available for inspection, examination and copying. Further deletions from the decisions may be made if necessary to preserve anonymity.

(i) Other Prohibitions or Limitations on Disclosure and Motions Regarding the Sealing of Records. Physical and electronic records, may be disclosed, or temporarily or permanently sealed or redacted by order of the court on a case-by-case basis.

(1) Any person or the court on its own motion may move to disclose, redact, seal or unseal a part or all of the records in any judicial proceeding. The court shall hold a hearing on the motion after the moving party gives notice of the hearing to all parties to the judicial proceeding and any other interested party designated by the court. The court may order that the record immediately be redacted or sealed pending the hearing if the court finds that doing so may be necessary to prevent harm to any person or persons. In ruling on whether specific records should be disclosed, redacted or sealed by order of the court, the court shall determine and make a finding of fact as to whether the interest in privacy or public disclosure predominates. If the court redacts or seals records to protect predominating privacy interests, it must fashion the least restrictive exception from disclosure consistent with privacy interests.

(2) Before a court may enter an order redacting or sealing records, it must also make one or more of the following determinations in writing:

- (A) That the documents or materials contain highly intimate facts or statements, the publication of which would be highly objectionable to a reasonable person, or
 - (B) That the documents or materials contain facts or statements that the court finds might be libelous, or
 - (C) That the documents or materials contain facts or statements, the dissemination or publication of which may compromise the financial security of, or could reasonably result in economic or financial loss or harm to a person having an interest in the documents or materials, or compromise the security of personnel, records or public property of or used by the judicial department, or
 - (D) That the documents or materials contain facts or statements that might threaten or endanger the life or safety of individuals, or
 - (E) That it is necessary to temporarily seal or redact the documents or materials to preserve the right to a fair trial.
 - (F) That the documents contain personal data identifiers that should have been redacted pursuant to Idaho Rule of Electronic Filing and Service 15, Idaho Rule of Civil Procedure 2.6, or Idaho Rule of Family Law Procedure 218, in which case the court shall order that the documents be redacted in a manner consistent with the provisions of that rule.
- (3) In applying these rules, the court is referred to the traditional legal concepts in the law of the right to a fair trial, invasion of privacy, defamation, and invasion of proprietary business records as well as common sense respect for shielding highly intimate material about persons. In applying these rules, the court is referred to the traditional legal concepts in the law of invasion of privacy, defamation, and invasion of proprietary business records as well as common sense respect for shielding highly intimate material about persons.
- (4) When a record is sealed under this rule, it shall not be subject to examination, inspection or copying by the public. When the court issues an order sealing or redacting records, the court shall also inform the Clerk of the District Court of which specific files, documents and case management system records are to be sealed or redacted. When the court issues an order sealing or redacting records

for purposes of public disclosure, the original records in the court file shall not be altered in any fashion.

(5) If the court maintains physical files, sealed files shall be marked “sealed” on the outside of the file. The originals of records that have been ordered to be sealed or redacted shall be placed in a manila envelope marked “sealed” with a general description of the records, their filing date and the date they were sealed or redacted. When the court has issued an order redacting a record, a redacted copy, so marked, shall be substituted for the originals in the court file.

(6) If the court maintains electronic files, the clerk shall designate the security group of the sealed or redacted records as sealed, thereby limiting access in accordance with the court’s order. A redacted copy, so marked, shall be substituted for the originals in the court file.

(7) An order directing that records be redacted or sealed shall be subject to examination, inspection or copying by the public to the extent that such disclosure does not reveal the information that the court sought to protect in issuing the order. The decision on a motion to redact, seal or unseal records may be reconsidered, altered or amended by the court at any time. When the court issues an order disclosing otherwise exempt records, it shall place appropriate limitations on the dissemination of that information.

(j) Request for Records.

(1) Any person desiring to inspect, examine or copy physical records shall make an oral or written request to the custodian. If the request is oral, the custodian may require a written request. The custodian may request contact information as provided in I.C. § 74-102. A request for public records and delivery of the public records may be made by electronic mail. The request must clearly identify each record requested so that the custodian can locate the record without doing extensive research and continuing request for documents not yet in existence will not be considered. The custodian may provide the requester information to help the requester narrow the scope of the request or to help the requester make the request more specific when the response to the request is likely to be voluminous.

(2) Custodian Defined. The custodian of judicial public records is designated as follows:

(A) For any record in a case file in the Supreme Court or Court of Appeals, the custodian is the Clerk of the Supreme Court or a deputy clerk designated in writing.

- (B) For any record not in a case file in the Supreme Court or Court of Appeals, the custodian is the Administrative Director of the Courts or other person designated in writing by the Chief Justice.
- (C) For any record in a case file in a district court or magistrate court, the custodian is the Clerk of the District Court or a deputy clerk designated in writing.
- (D) For any record not in a case file in the district court or magistrate court, the custodian is the Trial Court Administrator of the judicial district, or judge or magistrate designated by the Administrative District Judge.
- (E) For any record in the judicial council, the custodian is the Executive Director of the Judicial Council.
- (F) For any record in the Idaho State Bar, the custodian is the Executive Director of the Idaho State Bar or other person designated in writing by the Idaho State Bar Commissioners.
- (G) For the purposes of the statewide case management system, the statewide case management system data storage, and compiled information, the custodian is the Administrative Director of the Courts or other person designated in writing by the Chief Justice.
- (3) Custodian Judge. The custodian judge of a judicial public record is designated as follows:
- (A) For any record in the Supreme Court, statewide case management system, or the statewide case management system data storage, the custodian judge is the Chief Justice, or the Vice-Chief Justice in the absence of the Chief Justice.
- (B) For any record in the Court of Appeals, the custodian judge is the Chief Judge of the Court of Appeals, or a Judge of the Court of Appeals designated in writing.
- (C) For any record in a case file in the district court or magistrate court, the custodian judge is the presiding magistrate or judge of that case, or judge or magistrate designated in writing by the Administrative District Judge.
- (D) For any record not in a case file in the district court or magistrate court, the custodian judge is the Administrative District Judge of that judicial district, or other district judge or magistrate designated in writing by the Administrative District Judge.
- (E) For any record in the judicial council, the custodian judge is the Chief Justice or the Vice-Chief Justice in the absence of the Chief Justice.

(F) For any record in the Idaho State Bar, the custodian judge is the Administrative District Judge of the Fourth Judicial District of the State of Idaho or a district judge designated in writing by the Administrative District Judge.

(4) Response to Request. The custodian shall respond to a request for examination of public records. Within three (3) working days from receipt of request, the custodian shall disclose the records requested, refer the request to the custodian judge for determination, or give written notice of denial of the request. Provided, if the custodian determines that it will take more than three (3) working days to determine whether the request should be granted, or that a longer period of time is needed to locate or retrieve the requested records, the custodian shall so notify the person making the request within ten (10) working days following the date of the request. If the documents requested are disclosed by the custodian, no other notice need be given by the custodian. The custodian is not under a duty to compile or summarize information contained in records, nor is the custodian obligated to create new records for the requesting party, except as provided herein. The custodian may deny a request for a copy of all or part of a transcript of an administrative or judicial proceeding or other voluminous publication or document when by rule or statute it may be obtained from the preparer of such record after payment of a fee. Efforts should be made to respond promptly to requests for records.

(5) Response by Custodian Judge. If a custodian determines that there is a question as to whether records should be disclosed pursuant to a request, or if a request is made for a ruling by a judge after the custodian denies the request, the custodian shall refer the request to the custodian judge for determination. The custodian judge shall make a written determination as to whether the records should be disclosed within ten (10) working days following the request. In the sole discretion of the custodian judge, an informal hearing may be held by the custodian judge on the question of whether the records should be disclosed. The custodian judge shall determine the time and place of the hearing and the notice to be given by the custodian to the person requesting the records and any other interested person. If a hearing is held under this rule, the response to the person requesting the record may be delayed a reasonable time after the conclusion of the hearing.

(6) Cost of Copying Records. The cost to make a paper copy of any record filed in a case with the clerk of the district court shall be determined by the clerk, and shall not exceed the amount specified

in I.C. § 31-3201. The cost for any other copying of any record shall be determined by order of the Supreme Court or the Administrative District Judge in accordance with the provisions of I.C. § 74-102. The costs so determined shall be paid, in advance, by the person requesting the records. Any delay in paying the costs of copying the records shall extend the time for response by the custodian. In the event that a person wishes to have a copy of a court record that can be easily copied to digital media by court personnel, the person making that request shall provide the appropriate media to the court for that purpose.

(7) Proceedings after Denial. If a custodian denies a request for the examination or copying of records, the aggrieved party may file a request for a ruling by the custodian judge. If the custodian judge denies a request for the examination or copying of records, the sole remedy of any aggrieved person shall be to institute proceedings for disclosure in the district court in accordance with I.C. § 74-115.

(Repealed in its ENTIRETY April 27, 2007, NEW Rule 32 adopted April 27, 2007; effective July 1, 2007, amended and effective February 1, 2009; amended March 18, 2011, effective July 1, 2011; amended February 9, 2012, effective July 1, 2012; amended October 5, 2013, effective January 1, 2014; amended November 25, 2013, effective January 1, 2014; amended April 2, 2014; effective July 1, 2014; amended April 2, 2015, effective April 15, 2015; amended May 7, 2015, effective July 1, 2015; amended April 12, 2016, effective July 1, 2016; amended November 14, 2016, effective November 22, 2016; amended June 30, 2017, effective July 1, 2017; amended May 14, 2019, effective July 1, 2019; amended June 26, 2019, effective July 1, 2019; amended May 4, 2020, effective July 1, 2020.)

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I.JR. 16. Expanding A Juvenile Corrections Act Proceeding To A Child Protective Act Proceeding (J.C.A.)

Idaho Juvenile Rule 16. Investigate, Screen or Expand a Juvenile Corrections Act Proceeding to a Child Protective Act Proceeding (J.C.A.)

(a) If at any stage of a J.C.A. proceeding the court has reasonable cause to believe that a juvenile living or found within the state is neglected, abused, abandoned, homeless, or whose parent(s) or other legal custodian fails or is unable to provide a stable home environment, as set forth in I.C. Section 16-1603, the court may:

(1) direct the Department of Health and Welfare to investigate the circumstances of the juvenile and his or her family and report to the court their findings and recommendations;

(2) order a screening team to convene and report to the court as provided for in this rule; or

(3) order the proceeding expanded to a Child Protective Act (C.P.A.) proceeding.

The order expanding the juvenile proceeding to a C.P.A. proceeding must be in writing, be case specific and contain the factual basis found by the court to support its order. The order will direct that copies of all court documents, studies, reports, evaluations, and other records in the court files, probation files, and juvenile corrections files relating to the juvenile/child be made available to the Department of Health and Welfare at its request and, if convened, the screening team.

(b) The purpose of the screening team in section (a)(2) is to develop a plan to safely meet the needs of the juvenile and the juvenile's family, based on all resources available to the juvenile, juvenile's parents, guardians, or legal custodians and, when appropriate, to avoid expanding the case to a C.P.A. proceeding. The focus of the screening team is to assess the juvenile's safety in the juvenile's home, determine whether the juvenile's needs, including services and treatment, can be safely and appropriately addressed, preferably in the juvenile's home. The screening team will include the juvenile, the juvenile's parents, custodians or legal guardians; a representative from the county juvenile probation office; the Idaho Department of Juvenile Corrections; the Idaho Department of Health and Welfare's Child and Family Services, and Children's Mental Health programs. In addition, the screening team may include the Idaho Department of Health and Welfare's Children's Developmental Disabilities program, local school officials, and any other person or entity that the court or screening team deems appropriate. Participants will share information relevant to the purpose of the screening team. All such information will be maintained as confidential pursuant to Idaho Court Administrative Rule (I.C.A.R.) 32.



(c) The screening team will consider a detailed history of the juvenile which will include, but not be limited to:

(1) history of mental health issues or substance abuse treatment;

(2) the family's structure and dynamics;

(3) child protection history, including services and treatment provided by Family and Children Services and other departments of the Idaho Department of Health and Welfare;

(4) history of parental, guardian or legal custodian engagement in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior;

(5) the juvenile's academic performance and behavior in an educational setting;

(6) prior intervention and treatment efforts by the family or the community;

(7) prior offenses; and

(8) current and prior risk/need assessments.

(d) The screening team will evaluate whether home or community-based programs or services can adequately address the risks, safety concerns, and needs identified by the screening team. The screening team will determine whether in-home or community services exist to address the juvenile's identified needs or whether such services can be accessed in a setting to prevent placement in the custody of the Idaho Department of Health and Welfare. The screening team will identify and evaluate any barriers that may exist and may also evaluate the relative cost-effectiveness of any options considered. The screening team will employ a family centered approach. The screening team will consider the juvenile's and family's strengths and needs and evaluate the juvenile's and parents', guardians', or legal custodians' capacity to safely parent the child at home, with extended family, or another placement.

(e) The county probation officer or other court designee will prepare a written report to the court summarizing the screening team's findings and recommendations. If the screening team does not reach consensus regarding its findings or recommendations, the written report will contain a summary of the different opinions regarding the juvenile's safety at home, risks, needs and recommendations. The written report will be presented to the court and be made available to the



parties as directed by the court and may include a recommendation for a plan for the juvenile and family to comply with a court order that addresses family and juvenile needs.

(f) If the court expands to a C.P.A. proceeding, the court may order the juvenile placed in shelter care under the C.P.A. When the court orders that the juvenile be placed in shelter care pending a shelter care hearing, the court will make a finding that the juvenile was placed in shelter because continuation in the juvenile's present condition or surroundings would be contrary to the welfare of the juvenile and vesting legal custody of the juvenile with the Department of Health and Welfare is in the juvenile's best interest. If the juvenile is placed in shelter care, a shelter care hearing under the C.P.A. must be held within 48 hours, excluding Saturdays, Sundays, and holidays, and notice thereof shall be given to the juveniles parents(s), guardian, or custodian, and to the Department of Health and Welfare.

(g) A copy of the order expanding a J.C.A. proceeding to a C.P.A. proceeding shall be given to the juvenile's parent(s), guardian, or custodian, the Idaho Department of Health and Welfare, the prosecuting attorney and other counsel of record, and the Department of Juvenile Corrections if the juvenile is currently under commitment to the Department, pursuant to these rules and the rules of civil procedure.

(h) No further C.P.A. petition will be required. A petition may be filed to include other children that come within the jurisdiction of the C.P.A. but who are not before the court under the Juvenile Corrections Act. Any petition must be filed 14 days before the date set for the adjudicatory hearing. Any adjudicatory hearing pursuant to I.C. Section 16-1619 will be held within 30 days of the court's determination to expand the proceeding to a C.P.A. proceeding. A notice of the hearing will be served upon the parent(s), the Department of Health and Welfare, the juvenile, and the Department of Juvenile Corrections if the juvenile is currently under commitment to the Department, as though a petition under the C.P.A. has been filed. The burden of going forward with the evidence at the adjudicatory hearing shall remain with the prosecuting attorney.

(i) The proceeding under the J.C.A. will continue unless otherwise ordered by the court. The court may consolidate hearings under both the J.C.A. and the C.P.A. if the purposes of both acts can be served and the rights of the participants are not prejudiced.

(j) The Department of Juvenile Corrections shall have standing as an interested party in the child protective action if the juvenile is in the custody of the Department.

(Revised Rule 16 - Adopted August 21, 2006; amended June 4, 2020, effective July 1, 2020.)

Source URL: <https://isc.idaho.gov/ijr16>

References in this chapter to “juvenile” or “juvenile offender” refer to juveniles in county juvenile detention centers

IDAPA 05
Title 01, Chapter 02
Department of Juvenile Corrections
05.01.02 – Rules and Standards for
Secure Juvenile Detention Centers

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Secure Juvenile Detention Centers

000. LEGAL AUTHORITY.

These rules are adopted pursuant to Section 20-504, Idaho Code.

(3-20-20)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 05.01.02, “Rules and Standards for Secure Juvenile Detention Centers,” IDAPA 05, Title 01, Chapter 02. (3-30-07)

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. (4-5-00)

002. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (4-5-00)

003. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules.

(3-30-07)

004. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the compliance monitoring and certification process of detention centers are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (3-30-07)

005. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions in Section 20-502, Idaho Code, the following definitions apply: (3-20-20)

01. Body Cavity Search. The manual internal examination into the rectal or vaginal cavities to detect contraband, performed only by a medical authority. (3-21-18)

02. Chemical Agent. An active substance, such as oleoresin capsicum, used to deter disturbances that might cause personal injury or property damage. (4-5-00)

03. Classification. A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and/or programs according to their needs and existing resources, while addressing the safety and security of all detained juveniles. (3-20-14)

04. Contact Visiting. A program that permits juvenile offenders to visit with designated person(s). The area is free of obstacles or barriers that prohibit physical contact. (3-30-07)

05. Contraband. Any item not issued or authorized by the detention center. (3-30-07)

06. Corporal Punishment. Any act of inflicting punishment directly on the body, causing pain or injury. (4-5-00)

07. Day Room/Multi-Purpose Room. That portion of the housing unit used for varied juvenile offender activities which is separate and distinct from the sleeping rooms. (3-30-07)

08. Detention Center. A facility established pursuant to Title 20, Chapter 5, Sections 20-517 and 20-518, Idaho Code, for the temporary placement of juvenile offenders who require secure confinement. (3-30-07)

09. Detention Records. Information regarding the maintenance and operation of the detention center including but not limited to correspondence, memorandums, complaints regarding the detention center, daily activity logs, security and fire safety checks, head counts, health inspection records, and safety inspection records, use of physical force records and use of restraints records, incident reports, employee training and certification for use of security equipment. (3-30-07)

10. Direct Care Staff. Any care staff member charged with day-to-day supervision of juvenile offenders housed in a juvenile detention center. (3-30-07)

11. Electroshock Device. A device which delivers an electric shock designed to temporarily disrupt muscle function. (3-21-18)

12. Emergency Care. Care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call. Emergency care shall be provided to the juvenile offender population by the medical staff, physician, other appropriately trained staff, local ambulance services or outside hospital emergency rooms. (3-30-07)

13. Emergency Plans. Written documents that address specific actions to be taken in an institutional emergency or catastrophe such as a medical emergency, fire, flood, riot or other major disruption. (4-5-00)

14. Health Appraisal. An evaluation of a patient's current physical and mental condition and medical histories conducted by the health authority or medical employee. (3-30-07)

15. Health Authority. The physician, health administrator, or agency responsible for the provision of health care services at the detention center. (3-30-07)

16. Health-Trained Employee. A person who operates within the limits of any license or certification to provide assistance to a physician, nurse, physician's assistant, or other professional medical staff. Duties may include preparing and reviewing screening forms for needed follow-up; preparing juvenile offenders and their records for sick call; and assisting in the implementation of medical orders regarding diets, housing, and work assignments. (3-29-12)

17. Housing Unit. The total living area available to a group or classification of juvenile offenders in a detention center. This area may consist of a dormitory or a combination of the space in each sleeping room and day room/ multi-purpose room. (3-30-07)

18. Incident Report. A written document reporting any occurrence or event, or an incident which threatens the safety and security

of direct care staff, juvenile offenders or others, or which threatens the security of the program and which requires a staff response. (3-21-18)

19. Juvenile Detention Records. Information maintained in hard copy or electronic format concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in detention. (3-30-07)

20. Mechanical Restraints. Devices used to restrict physical activity. (3-30-07)

21. Medical Employee. A certified or licensed person such as a physician, nurse, physician's assistant, or emergency medical technician who works under the supervision and authority of the health authority consistent with their respective levels of licensure, certification, training, education and experience. (3-29-12)

22. Medical Records. Records maintained by the health authority, to include medical examinations, diagnoses and any medical care provided. (3-21-18)

23. Medical Screening. A system of structured observation and initial health assessment of newly arrived juvenile offenders. Medical screenings may be performed by a medical employee or health-trained employee, or by a juvenile detention officer using a checklist approved by the Health Authority. (3-20-20)

24. Pat Search. The touching or feeling of a subject's clothed body to detect contraband. (4-5-00)

25. Perimeter Security. A system that controls ingress and egress to the interior of a detention center or institution. The system may include electronic devices, walls, fence, patrols or towers. (3-30-07)

26. Perimeter Security Check. Physical inspection of the perimeter of the detention center performed for the purpose of discovering or preventing security breach. May include the inspection of the perimeter of the detention center and adjacent containment fence or areas as designated by detention center policy and procedures. (3-30-07)

27. Petition for Exemption. A formal written document addressed to the Director of the Idaho Department of Juvenile Corrections

requesting exception from a detention center standard. (3-21-18)

28. Physical Intervention. Physical contact to guide, restrict or prevent movement in order to take immediate control of a situation. (3-21-18)

29. Policy and Procedures. Standard operating strategies and processes developed by the administrative authority governing detention center operations. (3-30-07)

a. Policy is a course of action that guides and determines present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the direct care staff must operate. (3-30-07)

b. Procedure is the detailed and sequential action which must be executed to ensure that policy is implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs actions required to perform a specific task within the guidelines of the policy. (4-5-00)

30. Prison Rape Elimination Act of 2003 (PREA). Public Law No. 108-79, including all subsequent amendments thereto as codified in 34 U.S.C. §§ 30301-30309, and all federal rules and standards promulgated thereunder, which promote zero (0) tolerance of sexual abuse of juvenile offenders by staff or by other juvenile offenders. (3-20-20)

31. Rated Capacity. The maximum number of juvenile offenders which may be housed in a particular room, housing unit, or detention center based upon available square footage, sanitation fixtures, and other physical plant features specified in these rules. (3-30-07)

32. Renovation. The alteration of the structure of any existing juvenile detention center, or portion thereof, for the purposes of changing or improving its function. This may include, but not be limited to, altering the physical layout of essential areas within the detention center or reconstruction of the existing structure, areas, or interior features. (3-30-07)

33. Rule Infraction. A violation of detention center rules of conduct or policy and procedures as governed by detention center policy and procedures. (3-30-07)

34. Safety Equipment. Devices primarily used for safety purposes such as but not limited to firefighting equipment, for example, chemical extinguishers, hoses, nozzles, water supplies, alarm systems, sprinkler systems, portable breathing devices, gas masks, fans, first aid kits, stretchers, and emergency alarms. (4-5-00)

35. Secure Perimeter. The outer portions of a detention center that provide for secure confinement of juvenile offenders. (3-30-07)

36. Security Devices. Equipment used primarily to confine and control detained persons and may include but is not limited to locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies, and other equipment used to maintain detention center security. (3-30-07)

37. Staffing Plan. A documented schedule which includes staffing of direct care staff, staffing ratios, resident activities, and the certification level of staff. (3-30-07)

38. Standards. Rules for Secure Juvenile Detention Centers, IDAPA 05, Title 01, Chapter 02. (3-30-07)

39. Strip Search. A visual examination of a juvenile offender's naked body for weapons, contraband, injuries, or a medical condition that may require further attention. This also includes a thorough search of the juvenile offender's clothing while such is not being worn. (3-21-18)

40. Volunteer. A person who freely chooses to provide services to juvenile offenders or staff at a juvenile detention center, and is not compensated for the services or time. Volunteers are supervised by direct care staff. Volunteers shall not be unsupervised with juvenile offenders and will be supervised by direct care staff at the detention center. (3-29-12)

011. -- 199. (RESERVED)

200. INSPECTION PROVISIONS.

The Department or its designee has the authority to visit and inspect all juvenile detention facilities to assess such facilities' compliance with these

rules and any other standards outlined in Title 20, Chapter 5, Section 20-518, Idaho Code. (3-29-12)

01. Annual Visits. Each juvenile detention center shall be subject to announced or unannounced visits by Department representatives on at least an annual basis. (3-30-07)

02. Review of Logs, Records, Policy and Procedure Manuals, Memorandums and Reports. All logs, records, policy and procedures manuals, memorandums, training records, and incident and other reports shall be available for review excluding medical records, personnel records and personnel action reports. Department representatives will be allowed to observe and privately interview juvenile offenders and staff concerning any matter pertaining to these rules. Department representatives will have access to all parts of the detention center for the purpose of inspecting the physical plant. (3-21-18)

201. DEPARTMENT PREPARED WRITTEN REPORT OR THEIR AGENTS.

Department representatives shall prepare a written report of each inspection within ninety (90) days following such inspection and provide copies to the appropriate detention center administrator with copies to the governing body and the county attorney. The report will additionally be submitted to the Director for consideration and review of the issuance or renewal of a certificate. (3-29-12)

202. COMPLIANCE WITH STANDARDS ENFORCED.

Upon completion of an inspection, the Department will send notice of such compliance or noncompliance to the detention center administrator, governing body responsible for the detention center, and Idaho County Risk Management Program where applicable. (3-30-07)

01. Development of a Plan of Corrective Action. Upon receipt of a notice of noncompliance from the Department, the detention center administrator and governing body shall develop a plan of corrective action to correct the deficiencies cited in the report. The plan shall include a description of the nature of noncompliance for each standard cited, the steps to be taken to correct the deficiency, and a projected completion date. Inspection representatives shall be available to advise and consult concerning an appropriate corrective action. The plan shall be submitted

no later than sixty (60) days from receipt of notice to the Department for approval. (3-30-07)

02. Demonstration of Meaningful Progress Toward Achieving Compliance. Meaningful progress toward achieving compliance according to the submitted plan must be demonstrated during the time frame approved by the Department in the corrective action plan. (3-30-07)

203. CONFORMITY WITH APPLICABLE LAWS AND REGULATIONS.

Juvenile detention centers shall conform to laws, rules, and regulations adopted by the federal government, state of Idaho, the county, and the municipality in which such detention center is located including, but not limited to, all applicable public health, safety, fire codes, building regulations, and interstate compact regulations. (3-30-07)

204. STANDARDS COMMITTEE.

A standing committee shall be created for the purpose of reviewing the standards, petitions for exemption from standards and requests for modification of standards. The committee will be made up of three committee members: one (1) representative and one (1) alternate from the detention center administrators, one (1) representative and one (1) alternate county commissioner, and one (1) representative from the Department. Final appointment of all Standards Committee members and alternates are made by the Director. The detention center representative of detention center administrators and county commissioner representative should not be from the same judicial district. Alternates should not be from the same judicial district as their corresponding representative. Committee members' terms will run two (2) years starting on October 1 of the year in which the member is nominated and approved. If the petition for exemption or request for modification is initiated from the same district as a committee representative, that committee representative will abstain and the alternate will serve in place of said representative. (3-30-07)

01. Standards Committee Meetings. The Standards Committee will meet at least biennially to review the Juvenile Detention Center Standards, requests for modification of standards, or petitions for exemptions. The Standards Committee will also meet when the Director determines that a special meeting is necessary to review the juvenile

detention center standards, requests for modification of standards or petitions for exemptions. (3-21-18)

02. Requests for Modification of Standards. In the event a standard becomes obsolete or unworkable, a request for modification may be filed with the Director. The request letter must represent the views of at least three detention center administrators and contain their signatures. The Director will then make determinations as to the necessity, scheduling and convening of a special meeting of the Standards Committee. If convened, the Standards Committee will review the request, prepare and submit its written recommendations to the Director. The Director retains the authority to make the final decision to promulgate rules or allow the standards to remain unmodified. (3-30-07)

03. Modification of Standards by the Standards Committee. In the event that the Standards Committee determines that a standard is obsolete, unworkable, unclear, or otherwise unreasonable, the committee may submit written recommendations to the Director for changes to the standards, along with explanations regarding the reasons for the requested changes. The Director retains the authority to make the final decision to promulgate rules or allow the standards to remain unmodified. Any modification of the standards must be promulgated as rules in accordance with the Idaho Administrative Procedures Act. (3-30-07)

205. -- 209. (RESERVED)

210. DETENTION CENTER ADMINISTRATION.

01. Legal Entity. The public or private agency operating a detention center is a legal entity, part of a legal entity, or a political subdivision. (3-30-07)

02. Governing Body. Governing body means any public or private entity established or delegated as a source of legislative or administrative authority to provide the fiscal needs of the detention center administrator so that he may carry out the provisions of these rules. (3-30-07)

03. Detention Center Administrator. The detention center shall have a designated administrator who is responsible for all detention center operations. (3-30-07)

04. Mission Statement. The detention center shall have a written mission statement which describes its philosophy and goals. (3-30-07)

05. Policy and Procedures. The detention center administrator shall develop and maintain written policy and procedures which safeguard the basic rights of juvenile offenders and safeguard the juvenile offenders' freedom from discrimination based upon sex, race, creed, religion, national origin, disability, or political belief and establish practices that are consistent with fundamental legal principles, sound correctional practices, and humane treatment. These written policy and procedures shall be reviewed on a regular basis, updated as needed and made available to all detention center employees. The policy and procedures manual shall be submitted to the prosecuting attorney or other legal authority for review and approved by county commissioners or other governing authority. After such approval, a copy of the policy and procedures manual shall (be) submitted to the Department. (3-21-18)

211. (RESERVED)

212. STAFF REQUIREMENTS AND STAFF DEVELOPMENT.

01. Twenty-Four Hour Supervision. The detention center shall be staffed by detention center employees on a twenty-four (24) hour basis when juvenile offenders are being housed. (3-30-07)

02. Staffing. The detention center shall have staff to perform all functions relating to security, supervision, services and programs as needed to operate the detention center. The detention center shall have policy and procedures in place governing staffing and submit a staffing plan to the Department as requested. It is recommended that each secure juvenile facility shall maintain staff ratios of a minimum of one to eight (1:8) plus one (1) during resident waking hours and one to sixteen (1:16) during resident sleeping hours, except during limited and discrete exigent circumstances, which need be full documentation. (3-20-20)

a. If the detention center houses eight (8) or fewer juvenile offenders, there should be at least one (1) direct care staff and one (1) other staff awake at all times. (3-30-07)

b. If the detention center houses more than eight (8) juvenile offenders, there should be one (1) direct care staff for each eight (8)

juvenile offenders plus one (1) additional staff awake at all times. Example: if the detention center houses thirty-two (32) juvenile offenders, four (4) direct care staff would be recommended (one (1) staff to eight (8) juvenile offenders), plus one (1) additional staff for a total of five (5) staff. (3-29-12)

03. Gender of Employees. At least one (1) of the detention center employees on duty should be female when females are housed in the detention center and at least one (1) should be male when males are housed in the detention center. During the admission process, an employee of the same gender as the juvenile offender should be present. (3-21-18)

04. Minimum Qualifications. (3-30-07)

a. Direct care staff, at the time of employment, shall meet the minimum criminal history background and certification requirements as provided in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council.” (3-30-07)

b. Direct care volunteers, before starting volunteer services, shall meet the minimum criminal history background requirements as provided in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council.” (3-30-07)

c. The agency shall conduct criminal background records checks at least every five (5) years of current employees, contractors, and volunteers who may have contact with residents as outlined in PREA Standard Section 115.317. (3-20-14)

05. Training and Staff Development Plan. Each juvenile detention center shall develop a staff training and development plan based on the policy and procedures of the detention center. The plan shall also ensure that all juvenile detention officers earn the juvenile detention officer certificate as mandated in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council.” (3-30-07)

a. All new direct care staff shall be provided orientation training that addresses areas including, but not limited to: (3-21-18)

i. First aid/CPR; (3-30-07)

- ii. Security procedures; (3-30-07)
 - iii. Supervision of juvenile offenders; (3-30-07)
 - iv. Suicide prevention; (3-20-14)
 - v. Fire and emergency procedures; (3-30-07)
 - vi. Safety procedures; (3-30-07)
 - vii. Appropriate use of physical intervention and demonstrate an adequate level of proficiency as determined by a P.O.S.T. certified appropriate use of force instructor using a P.O.S.T. approved grading matrix; (3-25-16)
 - viii. Report writing; (3-30-07)
 - ix. Juvenile offender rules of conduct; (3-30-07)
 - x. Rights and responsibilities of juvenile offenders; (3-30-07)
 - xi. Key control; (3-30-07)
 - xii. Interpersonal relations; (3-30-07)
 - xiii. Social/cultural life styles of the juvenile population; (3-30-07)
 - xiv. Communication skills; (3-29-12)
 - xv. Mandatory reporting laws and procedures; (3-20-14)
 - xvi. Professional boundaries; and (3-20-14)
 - xvii. All training as outlined in section 115.331 of the PREA Standards. (3-20-14)
- b.** All direct care staff who are considered part-time, on-call, or working fewer than forty (40) hours per week and any direct care staff who works in a facility classified as Rural Exception, must obtain a part-time juvenile detention officer certification as mandated by IDAPA

11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council.” (3-25-16)

c. Ongoing training shall be provided at the minimum rate of twenty-eight (28) hours for each subsequent year of employment, which include, but are not limited to: (3-20-14)

i. A total of eight (8) hours of appropriate use of force demonstrate and adequate level of proficiency as determined by a P.O.S.T. certified appropriate use of force instructor using a P.O.S.T. approved grading matrix; and (3-25-16)

ii. All ongoing training as outlined in section 115.331 of the PREA Standards; and (3-25-16)

iii. All other trainings that require recertification. (3-20-14)

d. Volunteers and contractors shall be trained commensurate to their level of contact with juvenile offenders. (3-29-12)

e. Each facility shall maintain accurate training documentation. (3-20-14)

213. -- 214. (RESERVED)

215. DETENTION CENTER INFORMATION SYSTEMS.

01. Records. The detention center shall have written policy and procedures to govern the collection, management, and retention of information pertaining to juvenile offenders and the operation of the detention center. Written policy and procedures will address, at a minimum, the following: (3-20-20)

a. Accuracy of information, including procedures for verification; (4-5-00)

b. Security of information, including access and protection from unauthorized disclosure; (4-5-00)

c. Content of records; (4-5-00)

d. Maintenance of records; (4-5-00)

- e. Length of retention; and (4-5-00)
- f. Method of storage or disposal of inactive records. (4-5-00)

02. Release of Information.

Prior to release of information to agencies other than criminal justice authorities or other agencies with court orders for access, a written release of information shall be obtained from the juvenile offender's parent, legal guardian or through a court order with a copy of that release placed in the juvenile offender's file folder. (3-30-07)

03. Access to Records. Parents, legal guardians, legal representatives, and staff shall be permitted access to information in the juvenile offender's files and records as authorized by law. Absent a court order to the contrary, the detention center administrator may restrict access to certain information, or provide a summary of the information when its disclosure presents a threat to the safety and security of the detention center or may be detrimental to the best interests of the juvenile offender. If access to records is denied or restricted, documentation that states the reason for the denial or restriction shall be maintained by the detention center administrator. (3-29-12)

216. DOCUMENTATION.

01. Shift Log. The detention center shall maintain documentation including time notations on each shift which includes the following information, at a minimum: (3-30-07)

- a. Direct care staff on duty; (3-30-07)
- b. Time and results of security or well-being checks and head counts; (4-5-00)
- c. Names of juvenile offenders received or discharged with times recorded; (3-30-07)
- d. Names of juvenile offenders temporarily released or returned for such purposes as court appearances, work/education releases, furloughs, or other authorized absences from the detention center with times recorded; (3-30-07)

e. Time of meals served; (4-5-00)

f. Times and shift activities, including any action taken on the handling of any routine incidents; (3-29-12)

g. Notation and times of entry and exit of all visitors, including physicians, attorneys, volunteers, and others; (4-5-00)

h. Notations and times of unusual incidents, problems, disturbances, escapes; (3-29-12)

i. Notations and times of any use of emergency or restraint equipment; and (4-5-00)

j. Notation and times of perimeter security checks. (4-5-00)

02. Housing Assignment Roster. The detention center shall maintain a master file or roster board indicating the current housing assignment and status of all juvenile offenders detained. (3-30-07)

03. Visitor's Register. The detention center shall maintain a visitor's register in which the following will be recorded: (3-30-07)

a. Name of each visitor; (4-5-00)

b. Time and date of visit; (4-5-00)

c. Juvenile offender to be visited; and (3-30-07)

d. Relationship of visitor to juvenile offender and other pertinent information. (3-30-07)

04. Juvenile Detention Records. The detention center shall classify, retain and maintain an accurate and current record for each juvenile offender detained in accordance with the provisions of Title 31, Chapter 8, Section 31-871, Idaho Code. The record will contain, at a minimum, the following: (3-20-20)

a. Booking and intake records; (4-5-00)

b. Record of court appearances; (4-5-00)

- c. Documentation of authority to hold; (4-5-00)
- d. Probation officer or caseworker, if assigned; (4-5-00)
- e. Itemized inventory forms for all clothing, property, money, and valuables taken from the juvenile offender; (3-30-07)
- f. Classification records and information about a resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident; (3-20-14)
- g. Documentation of education as outlined in PREA Standard Section 115.333; (3-20-14)
- h. Rule infraction reports; (4-5-00)
- i. Records of disciplinary actions; (4-5-00)
- j. Grievances filed and their dispositions; (4-5-00)
- k. Release records; (4-5-00)
- l. Personal information and emergency contact information; (4-5-00)
- m. Documentation of a completed intake medical screening; (3-29-12)
- n. Visitor records; (4-5-00)
- o. Incident reports; (4-5-00)
- p. Photographs. (4-5-00)

05. Incident Reports. Any person involved in or witness to an incident shall write an individual incident report. The incident report shall include, at a minimum, who, what, when, where, why, how, and action taken. Incidents reports shall be written for situations including but not limited to the following: (3-21-18)

- a. Any criminal act; (3-21-18)

- b.** Use of force; (3-21-18)
- c.** Use of restraints, except for transfer; (3-21-18)
- d.** Suicide or attempted suicide; (3-21-18)
- e.** Escape or attempted escape; (3-21-18)
- f.** Emergencies; (3-21-18)
- g.** Serious rule violations; (3-21-18)
- h.** Cross-gender searches; (3-21-18)
- i.** Body cavity searches; (3-21-18)
- j.** Seizure and disposition of contraband; and (3-21-18)
- k.** Any incident deemed serious enough to disrupt or disturb the security, safety, and orderly operations or well-being of the center, staff, juveniles, or public. (3-21-18)

06. Incident Report Review. All incident reports shall be reviewed by the detention center administrator, or designee, and be maintained as part of the detention center records. (3-21-18)

217. MEDICAL INFORMATION.

01. Medical Files. The health authority shall maintain medical records for each juvenile offender which are kept separate from other records. (3-30-07)

02. Access to Medical Files. The detention center administrator, in conjunction with the health authority, shall establish procedures to determine access to medical files in accordance with privacy laws. (3-30-07)

218. -- 219. (RESERVED)

220. PROHIBITED CONTACT AND PRISON RAPE ELIMINATION ACT (PREA) COMPLIANCE.

01. Sexual Abuse of Juvenile Offenders. The detention center shall have written policy and procedures mandating zero (0) tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. The policy and procedures shall contain, at a minimum, the following provisions: (3-20-14)

a. The prohibition of any sexual abuse or sexual harassment as defined by PREA Standards or as defined in Title 18, Chapter 61, Section 18-6110, Idaho Code; (3-20-14)

b. The appointment of a PREA Coordinator, as outlined by PREA Standard Section 115.311(c), to be determined by the detention center administrator; (3-20-14)

c. Procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks as outlined by PREA Standard Section 115.315(d); (3-20-14)

d. The requirement of staff of the opposite gender to announce their presence when entering a resident housing unit or any area where residents are likely to be showering, performing bodily functions, or changing clothing as outlined by PREA Standard Section 115.315(d); (3-20-14)

e. The process that will be in place to provide age appropriate education to juvenile offenders as outlined by PREA Standard Section 115.333; (3-20-14)

f. The provision of multiple avenues for a juvenile offender or a third party to report sexual abuse and sexual harassment, at least one of which must be external to the agency as outlined by PREA Standard Section 115.351; (3-20-14)

g. The process for gathering information to make classification and housing decisions to reduce the risk of sexual victimization as outlined by PREA Standard Section 115.342; (3-20-14)

h. The handling of all information regarding sexual abuse or

sexual harassment with confidentiality as outlined by PREA Standard Section 115.361(c); (3-20-14)

i. The process to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior as outlined by PREA Standard Section 115.322; (3-20-14)

j. Policies to protect all residents and staff who report sexual abuse or sexual harassment from acts of retaliation as outlined by PREA Standard Section 115.367; (3-20-14)

k. The provision of timely and unimpeded access to crisis intervention services, medical, and mental health care to victims as outlined by PREA Standard Section 115.382(a); (3-20-14)

l. The provision and documentation of training for staff as outlined by PREA Standard Section 115.331; (3-20-14)

m. Within thirty (30) days of the conclusion of every sexual abuse investigation, the facility shall conduct a sexual abuse incident review as outlined in PREA Standard 115.386. (3-20-14)

221. -- 222. (RESERVED)

223. SAFETY AND EMERGENCY PROCEDURES.

01. Emergency Plan. The detention center shall have written policy and procedures which address fire safety plans for responding to emergency situations. (3-21-18)

02. Compliance with Fire Code. The detention center shall comply with local and state fire codes. A request for an annual inspection shall be made to the local fire marshal or authorized agency. The detention center needs to maintain documentation of this inspection. (3-30-07)

224. DETENTION CENTER SECURITY.

01. Security and Control Policy. The detention center's policy and procedures manual shall contain all procedures for detention center security and control, with detailed instructions for implementing

these procedures, and are reviewed at least annually and updated as needed. The manual shall be made available to all staff. (3-30-07)

02. Personal Observation. The detention center shall have written policy and procedures which govern the observation of all juvenile offenders and shall, at a minimum, require direct care staff to personally observe all juvenile offenders every thirty (30) minutes on an irregular schedule and the time of such checks shall be logged. More frequent checks should be made of juvenile offenders who are violent, suicidal, mentally ill, or who have other special problems or needs warranting closer observation. (3-25-16)

03. Cross Gender Supervision. The detention center shall have written policy and procedures governing supervision of female juvenile offenders by male employees and male juvenile offenders by female employees which shall be based on privacy needs and legal standards. Except in emergencies, detention center employees shall not observe juvenile offenders of the opposite sex in shower areas. Reasonable accommodation of privacy needs shall be observed. (4-2-08)

04. Head Counts. The detention center shall have written policy and procedures which shall outline a system to physically count or account for all juvenile offenders, including juvenile offenders on work release, educational release, or other temporary leave status who may be absent from the detention center for certain periods of the day. At least three (3) documented counts shall be conducted every twenty-four (24) hours. At least one (1) count shall be conducted each shift with at least four (4) hours between each count. (3-30-07)

05. Camera Surveillance. Camera surveillance equipment shall not be used in place of the personal observation of juvenile offenders. (3-29-12)

225. PHYSICAL INTERVENTION.

01. Appropriate Use of Physical Intervention. The detention center shall have written policy and procedures which govern the use of physical intervention. (3-21-18)

a. The use of physical intervention shall be restricted to the following situations, and then only to the degree necessary to restore order: (3-21-18)

- i. Instances of justifiable self-protection; (3-21-18)
- ii. The protection of others; (3-21-18)
- iii. The protection of property; (3-21-18)
- iv. The prevention of escapes; and (3-21-18)
- v. The suppression of disorder. (3-21-18)
- b.** Physical intervention shall not be used as punishment. (3-30-07)

02. Use of Chemical Agents. The detention center shall have written policy and procedures which govern the use of chemical agents, if approved for use in the detention center. (3-21-18)

a. The use of chemical agents shall be restricted to the following situations, and then only to the degree necessary to restore order: (3-21-18)

- i. Instances of justifiable self-protection; (3-21-18)
- ii. The protection of others; (3-21-18)
- iii. The prevention of escapes; and (3-21-18)
- iv. The suppression of disorder. (3-21-18)

b. Chemical agents shall only be administered by an individual who has been certified in its use by a qualified instructor. (3-21-18)

c. Oleoresin Capsicum shall be the only chemical agent approved for use in juvenile detention centers. (3-29-12)

03. Use of Electroshock Devices. The use of electroshock devices is prohibited in juvenile detention centers unless used by law enforcement officers responding to a call for assistance initiated by detention staff. (3-21-18)

04. Use of Mechanical Restraints. The detention center shall have written policy and procedures which govern the use of mechanical

restraints, including notification of medical or mental health professionals. (3-21-18)

a. The use of restraints shall be restricted to: (3-21-18)

i. Instances of transfer; (3-21-18)

ii. Instances of justifiable self-protection; (3-21-18)

iii. The protection of others; (3-21-18)

iv. The protection of property; (3-21-18)

v. Medical reasons under the direction of medical staff; (3-21-18)

vi. The prevention of escapes; and (3-21-18)

vii. The suppression of disorder. (3-21-18)

b. Restraints shall not be used as punishment or for the convenience of staff. (4-5-00)

c. Juvenile offenders in mechanical restraints shall not be left unattended except in documented exigent circumstances. (3-21-18)

226. PERIMETER SECURITY CHECKS AND SECURITY INSPECTIONS.

01. Perimeter Security Checks. The detention center shall have written policy and procedures which govern the frequency and performing of perimeter security checks. (3-30-07)

02. Security Inspections. The detention center shall have written policy and procedures which require timely notification to the detention center administrator or designee of any structural or security deficiencies. The detention center administrator shall promptly correct any identified problems. The facility shall maintain documentation of any corrective action. (3-25-16)

227. SEARCH AND SEIZURE.

01. Detention Center Search Plan. The detention center

shall have written policy and procedures which outline a detention center search plan for the control of contraband and weapons and provides for unannounced and irregularly timed searches of juvenile offenders' rooms, day rooms, and activity, work or other areas accessible to juvenile offenders and searches of all materials and supplies coming into the detention center. (3-30-07)

02. Personal Searches. The detention center shall have written policy and procedures governing the personal searches of juvenile offenders, to include pat, strip, visual body cavity, and body cavity searches for the control of contraband and weapons and provides for unannounced and irregularly timed searches of juvenile offenders. Said policies and procedures shall include, at a minimum, requirements that: (3-21-18)

a. All searches be performed under sanitary conditions in a manner which protects the dignity of the juvenile to the greatest extent possible; (3-21-18)

b. All pat searches be performed by direct care personnel of the same sex as the juvenile, except under exigent circumstances; (3-21-18)

c. All strip or visual body cavity searches be performed by direct care personnel of the same sex as the juvenile with the exception of the health authority or medical personnel; (3-21-18)

d. No person of the opposite sex of the juvenile shall be allowed to observe any unclothed search of the juvenile, including strip, visual body cavity, or body cavity searches with the exception of the health authority or medical personnel; (3-21-18)

e. All body cavity searches shall be conducted only by the health authority or by medical personnel; (3-21-18)

f. An initial pat search must be performed at the intake process prior to the removal of any mechanical restraints; and (3-21-18)

g. Any search or physical examination of transgender or intersex residents for the sole purpose of determining genital status is prohibited. (3-21-18)

03. Documentation of Certain Searches. The detention center shall have policies and procedures which govern the documentation of certain searches. Documentation shall be maintained in detention center records and in the juvenile offender's record, and shall include justification and any exigent circumstances surrounding the search. Searches which must be documented include, but are not limited to: (3-21-18)

a. Any search performed by direct care personnel of the opposite sex as the juvenile; (3-21-18)

b. Any strip or visual body cavity search performed or observed by direct care personnel of the opposite sex of the juvenile; (3-21-18)

c. Any body cavity search observed by direct care personnel of the opposite sex of the juvenile; or (3-21-18)

d. Any strip, visual body cavity or body cavity search performed. (3-21-18)

04. Seizure and Disposition of Contraband. The detention center shall have written policy and procedures which explains the chain of custody to govern the handling and/or disposal of contraband. All contraband found during detention center or juvenile offender searches shall be seized and processed according to detention center policy, including involvement of law enforcement, if appropriate. The seizure and disposition of the contraband shall be documented. When a crime is suspected to have been committed within the detention center, all evidence shall be maintained and made available to the proper authorities. (3-21-18)

228. SECURITY DEVICES.

01. Key Control. The detention center shall have policy and procedures in place to govern key and tool control. (3-30-07)

02. Security Devices. The detention center shall have written policy and procedures to govern the use of security devices. Detention center employees shall use only security equipment on which they have been properly trained and is issued through, or authorized by, the detention center administrator. The facility shall maintain documentation of proper training. (3-25-16)

03. Weapons Locker. The detention center shall provide a weapons locker or similar arrangement at security perimeter entrances for the temporary storage of weapons belonging to law enforcement officers who must enter the detention center. (3-30-07)

229. (RESERVED)

230. FOOD SERVICES.

The detention center shall have written policy and procedures which govern food service. If food is not obtained through a food service contract from an outside source, the detention center's food service operation shall be supervised by a designated employee who has experience and/or training in meal preparation, menu planning, staff supervision, ordering procedures, health and safety policies, theft precautions, and inventory control. If food is obtained through a food service contract from an outside source, provisions shall be made to assure that the contractor complies with the applicable section of these rules. (3-30-07)

231. (RESERVED)

232. SPECIAL DIETS.

The detention center shall have written policy and procedures which govern special diets. (3-30-07)

01. Special Diets, Medical. Special diets prescribed by a physician shall be followed according to the orders of the treating physician or dentist. (4-5-00)

02. Special Diets, Religious. Provisions should be made for special diets when a juvenile offender's religious beliefs require adherence to particular dietary practices. (4-5-00)

233. DIETARY RECORDS.

01. Food Service Records. The detention center shall maintain an accurate record of all meals served to juvenile offenders, including special diets. All menus shall be planned, dated, and available for review at least one (1) week in advance. Notations shall be made of any changes in the menu. Menus shall be kept at least one (1) year after use. (3-30-07)

02. Review of Menus. Menus and records of meals served

shall be reviewed on a regular basis at least annually by a licensed dietician, physician or nutritionist to verify nutritional adequacy or shall meet the current guidelines of the National School Lunch Program. The detention center shall maintain documentation of the dietician's, physician's or nutritionist's review and verification. Subsequent menus shall be promptly revised to eliminate any deficiencies noted. (3-30-07)

234. MEALS.

01. Providing Meals. The detention center shall have written policy and procedures which govern the providing of meals. Three (3) meals, at least two (2) of which includes a hot entree, shall be served daily. (3-29-12)

a. Meals must be served at approximately the same time every day. No more than fourteen (14) hours shall elapse between the evening meal and breakfast the next day unless an evening snack is served. If snacks are provided, up to sixteen (16) hours may elapse between the evening meal and breakfast. (4-5-00)

b. Juvenile offenders out of the detention center attending court hearings or other approved functions when meals are served shall have a meal provided upon their return if they have not already eaten. (3-30-07)

c. If meals are provided to staff, the menu should be the same as provided to juvenile offenders. (3-30-07)

d. The health authority or a medical employee shall be notified when a juvenile offender does not eat three (3) consecutive meals. (3-30-07)

02. Withholding of Meals as Disciplinary Sanction Prohibited. The detention center shall have written policy and procedures which dictate that meals shall not be withheld from juvenile offenders, nor the menu varied as a disciplinary sanction. (3-25-16)

03. Control of Utensils. The detention center shall have a control system for the issuance and return of all food preparation and eating utensils. (3-30-07)

235. FOOD SERVICE SANITATION.

01. Written Policy and Procedures. The detention center shall have written policy and procedures to govern food service sanitation. Food service and related sanitation practices shall comply with the requirements of the state health department or other appropriate regulatory body. The detention center's food service operation shall be inspected in the manner and frequency mandated by local health authorities. The detention center administrator shall solicit at least an annual sanitation inspection by a qualified entity. The results of such inspections shall be documented and the detention center administrator shall take prompt action to correct any identified problems. (3-21-18)

236. -- 239. (RESERVED)

240. SANITATION AND HYGIENE.

01. Sanitation Inspections. Written policy and procedures shall provide that the detention center be maintained in a clean and healthful condition and that the detention center administrator or designee shall conduct monthly sanitation and maintenance inspections of all areas of the detention center. (3-30-07)

02. Vermin Control. The detention center shall have a plan for the control of vermin and pests which includes inspections and fumigations, as necessary, by a licensed pest control professional. (3-30-07)

03. Housekeeping Plan. The detention center shall have a written housekeeping plan for all areas of the physical plant which provides for daily housekeeping and maintenance by assigning specific duties to juvenile offenders and staff. All work shall be assigned and supervised by detention center employees. No juvenile offender shall be allowed to assign work to other juvenile offenders. (3-30-07)

04. Maintenance and Repair. The detention center shall have written policy and procedures to provide that all plumbing, lighting, heating and ventilation equipment, furnishings, and security hardware in juvenile offender living areas shall be kept in good working order. Any broken fixture, equipment, furnishings, or hardware shall be promptly repaired or replaced. Painted surfaces shall not be allowed to become scaled or deteriorated. (3-30-07)

05. Water Quality. The water shall meet all current standards set by the applicable state and local authority as to bacteriological, chemical, and physical tests for purity. (3-30-07)

241. -- 244. (RESERVED)

245. PERSONAL HYGIENE.

01. Personal Hygiene Items. The detention center shall have written policy and procedures which govern the provision of, without charge, the following articles necessary for maintaining proper personal hygiene: (3-30-07)

- a. Soap; (4-5-00)
- b. Toothbrush; (4-5-00)
- c. Toothpaste; (4-5-00)
- d. Comb or brush; (3-30-07)
- e. Shaving equipment; (3-21-18)
- f. Products for female hygiene needs; and (3-30-07)
- g. Toilet paper. (3-30-07)

02. Removal of Personal Hygiene Items. The detention center shall have written policy and procedures that govern the removal of personal hygiene items from juvenile offenders' sleeping areas. Removal must be based upon sufficient reason to believe that the juvenile offender's access to the items poses a risk to the safety of juvenile offenders, staff or others, or poses a security risk to the detention center. (3-30-07)

03. Clothing and Linens. The detention center shall provide for the issue of clean clothing, bedding, linens, and towels to new juvenile offenders held overnight. At a minimum, the following shall be provided: (3-30-07)

- a. A set of standard detention center clothing or uniform; (3-30-07)

b. A set of standard detention center bedding and linens;
(3-25-16)

c. Fire-retardant mattress;
(4-5-00)

d. Sufficient blankets to provide comfort under existing temperature conditions; and
(4-5-00)

e. One (1) clean towel.
(4-5-00)

04. Laundry Services. Laundry services shall be sufficient to allow required clothing, bedding, and towel exchanges for juvenile offenders.
(3-30-07)

a. Clothing and towels used by the juvenile offender while in the detention center shall be laundered or exchanged at least twice each week.
(3-30-07)

b. Linen shall be changed and laundered or exchanged at least once weekly or more often, as necessary.
(4-5-00)

c. Blankets in use shall be laundered or exchanged at least monthly, or before re-issue to another juvenile offender.
(3-30-07)

05. Clothing and Linen Supplies. The detention center inventory of clothing, bedding, linen, and towels shall exceed the maximum population to ensure that a reserve is always available.
(3-30-07)

246. -- 249. (RESERVED)

250. HEALTH SERVICES.

01. Health Care. The detention center shall have written policy and procedures to govern the delivery of reasonable medical, dental, and mental health services. These written policy and procedures must at a minimum address, but are not limited to the following:
(3-21-18)

a. Intake medical screening must be documented and performed on all juvenile offenders upon admission to the detention center.
(3-29-12)

i. The medical screening should include inquiry of current illness and health problems, dental problems, sexually transmitted and other infectious diseases, medication taken and special health requirements, if any, the use of alcohol or drugs, mental illness and/or suicidal behavior. (3-29-12)

ii. The screening should also include observations of the physical condition, mental condition, and/or behavior. (3-21-18)

b. Handling of juvenile offenders' requests for medical treatment; (3-30-07)

c. Non-emergency medical services; (4-5-00)

d. Emergency medical and dental services; (4-5-00)

e. Use of a vehicle for emergency transport; (3-25-16)

f. Emergency on-call physician and dental services when the emergency health care facility is not located nearby; (4-5-00)

g. The availability of first-aid supplies; (3-21-18)

h. Screening, referral, and care of juvenile offenders who may be suicide-prone, or experience physical, mental or emotional disabilities; (3-30-07)

i. Arrangements for providing close medical supervision of juvenile offenders with special medical or psychiatric problems; (3-30-07)

j. Delousing; (3-29-12)

k. Medical isolation, and proper examination of juvenile offenders suspected of having contagious or infectious diseases; (3-21-18)

l. Management of pharmaceuticals, including storage in a secure location; and (3-30-07)

m. Notification of next of kin or appropriate authorities in case of serious illness, injury or death. (3-30-07)

02. Medical Judgments. Except for regulations necessary to ensure the safety and order of the detention center, all matters of medical, mental health, and dental judgment shall be the sole province of the health authority, who shall have final responsibility for decisions related to medical judgments. (3-30-07)

03. Informed Consent. Permission to perform medical, surgical, dental or other remedial treatment shall be obtained from parents, spouse, guardian, court or other competent person as stated in Title 16, Chapter 16, Section 16-1627, Idaho Code. (3-30-07)

04. Health Appraisal. A health appraisal for each juvenile offender shall be provided by the health authority or medical employee within fourteen (14) days of admission. (3-30-07)

251. -- 254. (RESERVED)

255. RULES AND DISCIPLINE.

01. Behavioral Management. The detention center shall have written policy and procedures for maintaining discipline and regulating juvenile offenders' conduct. The following general principle shall apply: (3-21-18)

a. The conduct of juvenile offenders shall be regulated in a manner which encourages and supports appropriate behavior, with penalties for negative behavior; (3-30-07)

b. The detention center shall have written rules of conduct which specify prohibited acts, the penalties that may be imposed for various degrees of violation, and the disciplinary procedures to be followed; (3-30-07)

c. Disciplinary action shall be of a nature to regulate juvenile offenders' behavior within acceptable limits and shall be taken at such times and in such degrees as necessary to accomplish this objective; (3-30-07)

d. The behavior of juvenile offenders shall be controlled in an impartial and consistent manner; (3-30-07)

e. Disciplinary action shall not be arbitrary, capricious, retaliatory, or vengeful; (4-5-00)

f. Corporal or unusual punishment is prohibited, and care shall be taken to insure juvenile offenders' freedom from personal abuse, humiliation, mental abuse, personal injury, disease, property damage, harassment, or punitive interference with daily functions of living, such as eating or sleeping; (3-30-07)

g. Juvenile offenders shall not be subject to any situation in which juvenile offenders impose discipline on each other. (3-30-07)

02. Resolution of Rule Infractions. The detention center shall have written policy and procedures to define and govern the resolution of rule infractions. (3-30-07)

03. Grievance Procedures. The detention center shall have written policy and procedures for juvenile offenders which will identify grievable issues and define the grievance process. (3-30-07)

04. Criminal Law Violations. The detention center shall have written policy and procedures to govern the handling of incidents that involve the violation of federal, state, or local criminal law, including prompt referral to the appropriate authority for possible investigation and prosecution. (3-30-07)

256. COMMUNICATION AND CORRESPONDENCE.

01. Mail, Visiting, Telephone. The detention center shall have written policy and procedures which shall govern the practices of handling mail, visitation, use of the telephone, and any limitations or restriction on these privileges. Juvenile offenders shall have the opportunity to receive visits and to communicate and correspond with persons, representatives of the media or organizations, subject to the limitations necessary to maintain detention center security and order. (3-21-18)

02. Resident Access to Outside Support Services. The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse as outlined by PREA Standard Section 115.353. (3-20-14)

03. Mail Service. Mail, other than sent to or received from public officials, judges, attorneys, courts, government officials and officials of the confining authority, may be opened and inspected for contraband. (4-5-00)

04. Telephone Service. All juvenile offenders, except those restricted as a result of disciplinary action, shall be provided the opportunity to complete at least two (2) telephone calls weekly to maintain family and community ties. (3-30-07)

a. Telephone calls may be monitored and notification shall be provided to the juvenile. (3-21-18)

b. The detention center may require that any costs for telephone calls be borne by the juvenile offender or the party called. (3-30-07)

c. Written policy and procedures shall grant all juvenile offenders the right to make at least one (1) local or collect long distance telephone call to family members, attorneys, or other approved individuals during the admissions process. (3-30-07)

d. Juvenile offenders shall be allowed to make a reasonable number of telephone calls to their attorneys that: (3-20-20)

i. Are of reasonable duration; (3-20-20)

ii. Are not monitored; and (3-20-20)

iii. Are not revoked as a disciplinary measure. (3-20-20)

05. Visitation Restrictions. The parents or legal guardians, probation officer, parole officer, detention center administrator or the court of jurisdiction may impose restrictions on who may visit a juvenile offender. (3-30-07)

06. Search of Visitors. Written policy and procedures shall specify that visitors register upon entry into the detention center and the circumstances under which visitors are searched and supervised during the visit. (3-30-07)

07. Confidential Visits. The detention center shall provide

juvenile offenders adequate opportunities for confidential access to courts, attorneys and their authorized representatives, probation and parole officers, law enforcement, counselors, caseworkers and the clergy.

(3-21-18)

08. Visitation. Attorneys, probation and parole officers, law enforcement, counselors, caseworkers and clergy shall be permitted to visit juvenile offenders at reasonable hours other than during regularly scheduled visiting hours.

(3-21-18)

a. Visits with attorneys, probation and parole officers, law enforcement, counselors, caseworkers and clergy shall not be monitored, except that detention center employees may visually observe the visitation as necessary to maintain appropriate levels of security.

(3-21-18)

b. Visits with attorneys, probation and parole officers, law enforcement, counselors, caseworkers or clergy should be of the contact type unless otherwise indicated by the juvenile offender or visitor, or the detention center administrator determines there is a substantial security justification to restrict the visit to a non-contact type.

(3-21-18)

257. -- 260. (RESERVED)

261. ADMISSION.

01. Orientation Materials. Written policy and procedures shall provide that new juvenile offenders receive orientation materials, including conduct rules. If, at any time, a literacy or language barrier is recognized, the detention center shall make good faith efforts to assure that the juvenile offender understands the material.

(3-30-07)

02. Procedures for Admission. The detention center shall have written policy and procedures for admission of juvenile offenders which shall address, but are not limited to, the following:

(3-21-18)

a. Determination that the juvenile offender is lawfully detained in the detention center;

(3-29-12)

b. The classification of juvenile offenders in regard to sleeping, housing arrangements, and programming;

(3-30-07)

c. Any juvenile offender showing signs of impairment

should not be admitted to the detention center without documentation from medical personnel or a physician of examination, treatment, and fitness for confinement; (3-21-18)

d. A complete search of the juvenile offender and possessions; (3-30-07)

e. Pat searches shall be performed before mechanical restraints are removed at the admissions process; (3-21-18)

f. The care and disposition of personal property; (3-25-16)

g. Provision of shower and the issuance of detention clothing and personal hygiene articles; (3-30-07)

h. The provision of medical, dental and mental health screening; (3-30-07)

i. Male and female juvenile offenders shall not occupy the same sleeping room; (3-30-07)

j. The recording of basic personal data and information; (3-30-07)

k. Providing assistance to juvenile offenders in notifying their families of their admission and the discussion of procedures for mailing and visiting; (3-29-12)

l. The fingerprinting and photographing in accordance with Title 20, Chapter 5, Section 20-516(8), Idaho Code; and (3-29-12)

m. The administration of the MAYSI or other approved assessment tool. (3-20-20)

03. Court Appearance Within Twenty-Four Hours.

According to Title 20, Chapter 5, Section 20-516(4), Idaho Code, written policy and procedures shall ensure that any juvenile offender placed in detention or shelter care be brought to court within twenty-four (24) hours, excluding Saturdays, Sundays and holidays for a detention hearing to determine where the juvenile offender will be placed until the next hearing. (3-21-18)

04. Limitations of Detention. Written policy and procedures shall limit the use of detention in accordance with Title 20, Chapter 5, Section 20-516, Idaho Code. (3-30-07)

262. RELEASE.

01. Release of Offender. Written policy and procedures shall govern the release of any juvenile offender and the release process including, but not limited to: (3-21-18)

a. Verification of juvenile offender's identity; (3-20-14)

b. Verification of release papers; (3-20-14)

c. Completion of release arrangements, including the person or agency to whom the juvenile offender is being released: (3-20-14)

d. Return of personal effects; and (3-20-14)

e. Completion of any pending action. (3-20-14)

02. Temporary Release. Written policy and procedures shall govern escorted and unsecured day leaves into the community. (3-21-18)

03. Personal Property Complaints. Written policy and procedures shall govern a procedure for handling complaints about personal property. (4-5-00)

04. Disposal of Property. Property not claimed within four (4) months of a juvenile offender's discharge may be disposed of by the detention center in accordance with Title 55, Chapter 14, Section 55-1402, Idaho Code. (3-29-12)

263. -- 264. (RESERVED)

265. PROGRAMS AND SERVICES AVAILABLE.

01. Programs and Services. The detention center shall have written policy and procedures which govern what programs and services will be available to juvenile offenders. These programs and services shall include, at a minimum, the following: (3-21-18)

- a. Access or referral to counseling; (3-29-12)
- b. Religious services on a voluntary basis; (3-29-12)
- c. One (1) hour per day, five (5) days per week of large muscle exercise; (3-29-12)
- d. Passive recreational activities: (3-29-12)
- e. Regular and systematic access to reading material: (3-29-12)
- f. Work assignments; and (3-29-12)
- g. Educational programs according to the promulgated rules of the Idaho State Department of Education. (3-29-12)

02. Records of Participation in Programs and Services.

Records of participation in programs and services must be recorded in daily shift log or juvenile offender's file or program records. (3-20-14)

03. Limitations and Denial of Services.

Access to services and programs will be afforded to all juvenile offenders, subject to the limitations necessary to maintain detention center security and order. Any denial of services must be documented. (3-29-12)

266. -- 274. (RESERVED)

275. DETENTION CENTER DESIGN, RENOVATION, AND CONSTRUCTION.

01. Applicability.

All standards in this section, except where exceptions are stated, shall apply to new juvenile detention centers, renovation of existing juvenile detention centers, and renovation of any existing building for use as a juvenile detention center. In the case of a partial renovation of an existing detention center, it is intended that these rules should apply only to the part of the detention center being added or renovated. (3-29-12)

02. Code Compliance.

In addition to these rules, all new construction and renovation shall comply with the applicable ADA, building, safety, and health codes of the local authority and the applicable

requirements of the State Fire Marshal, and state law. Standards herein which exceed those of the local authority shall take precedence. (4-5-00)

03. Site Selection. Juvenile detention centers should be located to facilitate access to community resources and juvenile justice agencies. If the detention center is located on the grounds or in a building with any other correctional facility, it shall be constructed as a separate, self-contained unit in compliance with Title 20, Chapter 5, Section 20-518, Idaho Code. (3-30-07)

04. General Conditions. All newly constructed or renovated juvenile detention centers shall conform to the following general conditions: (3-30-07)

a. Light levels in all housing areas shall be appropriate for the use and type of activities which occur. Night lighting shall permit adequate illumination for supervision; (3-30-07)

b. All living areas shall provide visual access to natural light; (3-30-07)

c. HVAC systems shall be designed to provide that temperatures in indoor living and work areas are appropriate to the summer and winter comfort zones, and healthful and comfortable living and working conditions exist in the detention center; (3-30-07)

d. All locks, detention hardware, fixtures, furnishings, and equipment shall have the proper security value for the areas in which they are used. The use of padlocks in place of security locks on sleeping room or housing unit doors is prohibited; (3-30-07)

e. Juvenile offenders' rights to privacy from unauthorized or degrading observation shall be protected without compromising the security and control of the detention center. Privacy screening for all toilet and shower areas which still allows adequate supervision of those areas should be incorporated into the design; (3-30-07)

f. The detention center shall have a perimeter which is secured in such a way that juvenile offenders remain within the perimeter and that access by the general public is denied without proper authorization; (3-30-07)

g. The security area of the detention center shall have an audio communication system equipped with monitors in each sleeping room and temporary holding room designed to allow monitoring of activities and to allow juvenile offenders to communicate emergency needs to detention center employees. Closed circuit television should primarily be used to verify the identity of persons where direct vision is not possible. Closed circuit television shall not be used to routinely monitor the interior of sleeping rooms; and (3-30-07)

h. All newly constructed or renovated detention centers shall provide an emergency source of power to supply electricity for entrance lighting, exit signs, circulation corridors, fire alarm, electrically operated locks and the heating and ventilation system. (3-30-07)

i. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from any harm including sexual abuse as outlined by PREA Standard Section 115.318. (3-20-14)

05. Admission and Release Area. The detention center shall have an intake and release area which should be located within the security perimeter, but apart from other living and activity areas. (3-30-07)

a. Adequate space shall be allocated for, at least but not limited to; (3-30-07)

i. Reception; (3-30-07)

ii. Booking; (3-30-07)

iii. Search; (3-30-07)

iv. Shower and clothing exchange; (3-30-07)

v. Medical screening; (3-30-07)

vi. Storage of juvenile offender's personal property and detention center clothing; (3-30-07)

vii. Telephone calls; (3-30-07)

- viii. Interviews; and (3-30-07)
- ix. Release screening and processing. (3-30-07)

b. If a detention center has temporary holding rooms, the rooms may be designed to detain juvenile offenders for up to eight (8) hours pending booking, court appearance, housing assignment, transfer, or release. Temporary holding rooms may be designed for multiple occupancy and shall provide thirty-five (35) square feet of unencumbered floor space for each juvenile offender at capacity. (3-30-07)

c. Temporary holding rooms shall have access to a toilet and wash basin with hot and cold water. (3-30-07)

06. Single Occupancy Rooms. Single occupancy sleeping rooms or cells shall have a minimum of thirty-five (35) square feet of unencumbered space and shall be equipped with at least a bed above the floor. (4-5-00)

07. Multiple Occupancy Rooms. Multiple occupancy sleeping rooms or cells shall have at least thirty-five (35) square feet of unencumbered floor space per juvenile offender at the room's rated capacity and shall be equipped with at least a bed off the floor for each juvenile offender. (3-30-07)

08. Sanitation and Seating. All single or multiple occupancy sleeping rooms shall be equipped with, or have twenty-four (24) hours per day access without detention center staff assistance to toilets, wash basins with hot and cold running water, and drinking water at the following ratios: (3-30-07)

a. One (1) shower and one (1) toilet for every eight (8) juvenile offenders or fraction thereof; (3-30-07)

b. One (1) wash basin with hot and cold water for every twelve (12) juvenile offenders or a fraction thereof; and (3-30-07)

c. Tables and seating sufficient for the maximum number expected to use the room at one (1) time. (3-30-07)

09. Day Room and Multi-Purpose Room. The detention center shall have at least one (1) day room and multi-purpose room which

provides a minimum of thirty-five (35) square feet of floor space per juvenile offender for the maximum number expected to use the room at one (1) time. (3-30-07)

10. Program Space. Adequate space shall be allocated for, but not limited to: (3-30-07)

- a. Educational programs; (3-30-07)
- b. Individual and group activities; (3-30-07)
- c. Exercise and recreation, indoor and outdoor; (3-30-07)
- d. Visitation; (3-30-07)
- e. Confidential attorney and clergy interviews; and (3-30-07)
- f. Counseling. (3-30-07)

11. Interview Space. A sufficient number of confidential interview areas to accommodate the projected demand of visits by attorneys, counselors, clergy, or other officials shall be provided. At least one (1) confidential interview area is required. (4-5-00)

12. Medical Service Space. Space shall be provided for routine medical examinations, emergency first-aid, emergency equipment storage, and secure medicine storage. (4-5-00)

13. Food Service. The kitchen or food service area shall have sufficient space for food preparation, serving, disposal, and clean-up to serve the detention center at its projected capacity. The kitchen or food service area shall be properly equipped and have adequate storage space for the quantity of food prepared and served. (3-30-07)

14. Laundry. Where laundry services are provided in-house, there shall be sufficient space available for heavy duty or commercial type washers, dryers, soiled laundry storage, clean laundry storage, and laundry supply storage. (4-5-00)

15. Janitor's Closet. At least one (1) secure janitor's closet containing a mop sink and sufficient space for storage of cleaning supplies

and equipment shall be provided within the security perimeter of the detention center. (3-30-07)

16. Security Equipment Storage. A secure storage area shall be provided for all chemical agents, weapons, and security equipment. (4-5-00)

17. Administration Space. Adequate space shall be provided which includes but is not limited to, administrative, security, professional and clerical staff, offices, conference rooms, storage rooms, a public lobby, and toilet facilities. (4-5-00)

18. Public Lobby. A public lobby or waiting area shall be provided which includes sufficient seating and toilets. Public access to security and administrative work areas shall be restricted. All parts of the detention center that are accessible to the public shall be accessible to, and usable by, persons with disabilities in compliance with ADA standards. (3-30-07)

276. -- 999. (RESERVED)

IDAPA 05
Title 01, Chapter 03
Department of Juvenile Corrections

05.01.03 – Rules of the Custody Review Board

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IDAPA 05
Title 01, Chapter 03
Department of Juvenile Corrections
05.01.03 - Rules of the Custody Review Board

000. LEGAL AUTHORITY.

These rules are adopted pursuant to Title 20, Chapter 5, Idaho Code.
(3-20-20)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 05.01.03, “Rules of the Custody Review Board.”
(3-20-20)

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho and the Custody Review Board are consistently based on the principles of accountability, community protection, and competency development.
(3-20-20)

002. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the determination of the Custody Review Board.
(3-5-08)

003. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules.
(5-3-03)

004. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Custody Review Board are juvenile records of the Idaho Department of Juvenile Corrections, and are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (5-3-03)

005. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions in Section 20-502, Idaho Code, the following definitions apply:
(3-20-20)

01. Board. The Custody Review Board of the Idaho Department of Juvenile Corrections.
(5-3-03)

02. Case Management Team. A team consisting of juvenile services coordinator (JSC), case manager, and juvenile probation officer (JPO) who provide input in setting and following through with treatment goals. (5-3-03)

03. Case Manager. Department staff assigned to directly manage a juvenile's case, such as a group leader at a state institution; or, if a juvenile is placed at a contract program, the contract provider's employee assigned to directly manage a juvenile's case. (5-3-03)

04. Classification. A process for determining the treatment needs and requirements of juveniles committed to the Department and for assigning them to housing units or programs according to their needs and existing resources. (3-20-20)

05. Extended Time in Custody. Any period of time a juvenile remains in custody after age nineteen (19) and not to exceed age twenty-one (21). (3-20-20)

06. Juvenile Records. Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. (5-3-03)

07. Juvenile Services Coordinator (JSC). An employee of the Department assigned to a particular juvenile as the case worker, licensed in social work. (3-5-08)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Hearings. All matters and testimony concerning juveniles, before the Board, are confidential and are conducted in accordance with Title 74, Chapters 1 and 2, Idaho Code; and Title 20, Chapter 5, Idaho Code, regarding juvenile records and proceedings. (3-29-17)

02. Written Record. A written record of the vote by the

Board shall be kept confidential and privileged from disclosure, to the extent allowed by law, and provided that the record, or portions thereof, is made available upon request for all lawful purposes or as required by the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-29-17)

03. Confidentiality. Distribution of the record by the Board or an employee of the Department to any person not specifically allowed by law to receive or read it may result in disciplinary action. (5-3-03)

04. Records of Hearings and Meetings. Summary minutes of individual hearings and case reviews will be signed by the Board and maintained in the Department office. (3-20-20)

101. POWERS AND DUTIES.

01. Review. The Board is empowered by Sections 20-520(1)(r) and 20-532, Idaho Code, to review the cases of juveniles in the custody of the Department whose cases have been referred to the Board according to Section 201 of these rules. (3-5-08)

02. Board Determinations. After conducting its review, the Board will advise the Director whether it has determined that the juvenile before it needs an extended time in custody to address accountability, community protection, and competency. (3-5-08)

03. Placement. The Board cannot direct the placement or treatment of a juvenile in the Department's custody. (3-29-17)

04. Release Date for Juveniles. If a juvenile appears before the Board and the Board determines that he not be retained in custody, the Director shall set a release date for the juvenile, as follows: (3-20-20)

a. If a juvenile appears before the Board prior to his nineteenth birthday, but before a reasonable and appropriate release plan has been finalized, the Department may retain the juvenile long enough to finalize those plans, not to exceed forty-five (45) days after the juvenile's nineteenth birthday. (4-6-05)

b. In all other cases, the Department may retain the juvenile long enough to finalize a reasonable and appropriate release plan, not to exceed forty-five (45) days after the Director signs the Boards determination. (3-20-20)

102. STRUCTURE AND COMPOSITION OF THE CUSTODY REVIEW BOARD.

01. Board Members. The Board is composed of four (4) members appointed by the Director who represent a variety of juvenile justice experiences and victim perspectives, or who are otherwise qualified. (3-20-20)

02. Terms of Appointment. The Director shall fill each succeeding vacancy for terms of four (4) years. Board vacancies for unexpired terms are appointed by the Director for the remainder of the term. All appointees may be reappointed. Appointees serve at the pleasure of the Director. (3-20-20)

03. Compensation of Board Members. Members will be compensated as provided by Section 59-509(b), Idaho Code. They serve without honorarium or compensation but are reimbursed for actual and necessary expenses, subject to the limits provided in Section 67-2008, Idaho Code. (5-3-03)

103. -- 199. (RESERVED)

200. REVIEW PROCESS.

A juvenile in the custody of the Department does not have the legal right or ability to request or demand a case review by the Board. A review by the Board does not create a liberty interest for the juvenile, and cannot be appealed. All cases come before the Board, as outlined in Section 201 of these rules. (3-20-20)

201. REFERRAL OF CASES TO THE BOARD.

The Board shall review cases referred to it and will advise the Director whether it has determined that extended time in custody is necessary for a juvenile to address competency, accountability and community protection. (3-5-08)

01. Cases Eligible for Referral. A juvenile's case is eligible for referral to the Board if: (3-20-20)

a. The juvenile is no more than six (6) months from his nineteenth birthday and one (1) or more members of the juvenile's case management team believes that the juvenile needs extended time in custody beyond that juvenile's nineteenth birthday; or (4-6-05)

b. The juvenile, at the time of commitment to the Department, is past age nineteen (19) or will reach age nineteen (19) prior to the next scheduled meeting of the Board. (3-29-17)

02. Juvenile Has Not Appeared Before the Board. Any juvenile who has not appeared before the Board in person or by video conference prior to the date of his nineteenth birthday, excepting those juveniles described in Paragraph 201.01.b. above, shall be released from custody on that date or as soon thereafter as a reasonable release plan can be determined and finalized. The final release date will not exceed forty-five (45) days after the juvenile's nineteenth birthday. (3-29-17)

03. Hearing Schedules. Once a case is referred, the Board will set a date for the review hearing. (3-29-17)

04. Written Submissions. All written documents and letters to be considered at a particular hearing need to be submitted fourteen (14) calendar days in advance of the scheduled hearing in order to ensure that they will be considered. Other documents may be allowed after this deadline by unanimous consent of the Board members present. Documents may include: (3-20-20)

a. Progress reports to the courts pursuant to Sections 20-532 and 20-540, Idaho Code; (5-3-03)

b. Report on original offenses leading to commitment plus order for commitment and orders of judgment; (5-3-03)

c. Written recommendations from each member of the case management team; (3-20-20)

d. Polygraph results and written conclusions and recommendations from the professionals administering these tests; (5-3-03)

e. Psychosocial or psychosexual evaluations; (5-3-03)

f. Victim's written statement; (5-3-03)

g. Juvenile's written statement; (5-3-03)

h. Initial classification; (5-3-03)

- i. Custody level assessment at case review; and (5-3-03)
- j. Any other pertinent information. (5-3-03)

202. PERSONS TO ATTEND OR COMMENT.

01. Juvenile. The juvenile who is the subject of a custody review proceeding is required to appear either in person or by videoconference. (5-3-03)

02. Witnesses. The Board allows for the participation of victims, attorneys, members of the case management team, and approved family members or others who have a direct relationship to the specific hearing or subject of the hearing. (5-3-03)

03. Participation. Persons who want to participate in hearings shall notify the Board staff fourteen (14) calendar days in advance of the scheduled hearing. Children, including victims, under the age of fourteen (14), may not be allowed to attend the hearings without prior approval of the Director or Board. Parents or guardians of child victims in a case may appear and comment. (5-3-03)

04. Time Limited. At its discretion, the Board may limit the time allotted to each participant during the proceeding. (3-29-17)

05. Exclusion. At its discretion, the Board may exclude witnesses or participants for inappropriate or disruptive behavior, or other good cause. (3-29-17)

203. CONFLICT OF INTEREST.

A member of the Board who has personal knowledge of a case, shall notify all other Board members of this fact prior to the meeting where that case is to be considered. The remaining members of the Board will determine whether that member should be disqualified from participating in the review of that case and determination. (5-3-03)

204. -- 299. (RESERVED)

300. BOARD DETERMINATIONS.

All determinations by the Board regarding a juvenile are prepared in writing and given to the Director. (3-5-08)

01. Confidentiality. All determinations, including any written documents from any source regarding the juvenile's case, will be held by the Department in the juvenile's case management file. (3-5-08)

02. Board's Determination to the Director. The Board's written determination concerning the juvenile's need for extended time in custody will be given to the Director no later than thirty (30) calendar days after the date the Board receives the last documents or interviews the last witness pertaining to the case. (3-20-20)

03. Reconsideration. The Board may reconsider its determination in any case only if the vote based on the reconsideration is made before the written determination is given to the Director. Only the members who heard the case may discuss or vote on any reconsideration of the determination. (3-5-08)

a. Any member of the Board who was present for and heard the juvenile's case may call for a vote to reconsider the Board's determination by making a request through the Board chair. (3-5-08)

b. Any reconsideration may occur by teleconference, in person, by videoconference, or any combination thereof. (3-5-08)

c. The chair will call for a motion to reconsider, and a vote. (3-5-08)

d. The determination is given to the Director in the same manner as is specified in Subsection 300.02, of these rules. (3-20-20)

04. Indeterminate Sentence Remains. If the Board determines that a juvenile needs to stay for an extended time in custody of the Department, that determination does not create a determinate sentence of any kind, and the Director retains the authority to release the juvenile at any later time deemed appropriate. (3-20-20)

05. Official Record of Hearing/Review. The signed summary minutes are the official record of a hearing or case review and the original record will be maintained with records of the Department. (3-20-20)

06. Evaluation of Juvenile Cases. Juvenile cases are evaluated on the individual merits of each case. The Board's evaluation of

a case and a juvenile's need for extended time in custody are not based upon any predetermined hearing standard, criteria, or precedent. Factors that may be taken into account by the Board include, but are not limited to: (5-3-03)

a. Seriousness of the crime; (5-3-03)

b. Prior criminal history of the juvenile, as well as prior commitments to the Department; (5-3-03)

c. Progress or completion of program, treatment plan, accountability; (5-3-03)

d. Institutional history to include conformance to established rules, involvement in programs and overall behavior; (5-3-03)

e. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen; and (5-3-03)

f. Information or reports regarding physical, psychological, or other conditions. (5-3-03)

301. -- 399. (RESERVED)

400. VICTIMS.

The Department and the Board will respect the rights of victims of crime in Idaho, pursuant to the Idaho Constitution and statute. When a juvenile's is referred for review, the Department will provide the Board with a list of crime victims who were officially identified by the adjudicating court or prosecuting attorney. (3-20-20)

01. Notice to Victims. The Board will notify identified victims of a juvenile's crime that a custody review hearing is scheduled. These victims will also be notified of their right to submit written statements or information and their right to provide testimony. After the review proceeding, the Department shall notify victims of the Board's determination regarding the custody of the juvenile. (3-20-20)

a. Notices of rights, hearings, the Board's final determinations, and any anticipated release documents will be sent to the

victim of record at the last known address. The victim is responsible for providing any change of address. (3-20-20)

b. Victims may request that they not be notified or contacted. (5-3-03)

02. Victim Testimony. A victim may attend all custody review hearings pertinent to their case and provide testimony. The victim may be allowed to testify before the Board members during a hearing session outside the juvenile's presence. (3-20-20)

401. -- 999. (RESERVED)

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IDAPA 05
Title 01, Chapter 04
Department of Juvenile Corrections

05.01.04 – Uniform Standards for
Juvenile Probation Services **(AMENDED)**

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IDAPA 05
Title 01, Chapter 04
Department of Juvenile Corrections
05.01.04 - Uniform Standards for
Juvenile Probation Services

000. LEGAL AUTHORITY.

These rules are adopted pursuant to Title 20, Chapter 5, Idaho Code.
(3-20-20)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 05.01.04, “Uniform Standards for Juvenile Probation Services.” (4-6-05)

02. Scope. These rules are established to ensure that all county juvenile probation services operate under consistent standards based on the principles of accountability, community protection, and competency development. (4-6-05)

002. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (4-6-05)

003. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. (4-6-05)

004. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Idaho Department of Juvenile Corrections are subject to these rules and the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (4-6-05)

005. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions in section 20-502, Idaho code, the following definitions apply: (3-20-20)

01. Balanced Approach. An approach to juvenile justice that gives balanced attention to holding offenders accountable, developing competencies, and protecting the community. (3-20-20)

02. Case Management Plan. A plan developed in collaboration with those directly involved in a juvenile's case to address criminogenic risk factors and identified needs. (3-20-20)

03. Evidence-Based Practices. Practices that are demonstrated to be effective through empirical research. (3-20-20)

04. Graduated Sanctions. An evidence-based model for juvenile offenders that combines accountability and sanctions with increasingly intensive treatment and rehabilitation services. (3-20-20)

05. Juvenile Probation Department. Any public or private agency, made up of one (1) or more staff, administered by or contracted with the court or county to provide juvenile probation services to a county at the expense and concurrence of the county commissioners. Services may include intake, diversion, supervision, restitution, and community service work. (3-20-20)

06. Juvenile Probation Officer. An employee of a juvenile probation department who is responsible for supervision of juvenile offenders' compliance with court orders. (3-20-20)

07. Probation. A legal status created by a court order that permits a juvenile offender to remain in the community with conditions and restrictions imposed by the court. (3-20-20)

08. Recidivism. A measure that counts the number of juvenile offenders who are adjudicated of a new misdemeanor or felony offense within a specified time period. (3-20-20)

09. Validated Risk/Needs Assessment. A validated instrument that measures a juvenile's criminal risk factors and specific needs that, if addressed, should reduce the juvenile's likelihood to reoffend. (3-20-20)

011. -- 099. (RESERVED)

100. REVIEW PROVISION.

The Idaho Department of Juvenile Corrections will collaborate with the courts and the counties to visit and review all juvenile probation departments to assess compliance with these rules. A written report of each

review will be prepared by the Department and provided to the appropriate juvenile probation administrator with copies to the county commissioners and the administrative judge (3-20-20)

101. -- 199. (RESERVED)

200. ADMINISTRATION.

01. Department Mission Statement. Juvenile probation departments should have a department mission statement that incorporates the principles of the balanced approach and guides the operations of the department. (3-20-20)

02. Policies and Procedures. Juvenile probation departments shall have policies and procedures for the operation of the department that are consistent with existing laws, local rules, and evidence-based practices. All written policies, procedures, rules and regulations should be dated, reviewed at least annually, and made available to department employees. Policies will include administrative procedures for the following: (3-20-20)

a. Roles of employees and organizational authority within the department; (3-20-20)

b. Communication and dissemination of pertinent information to staff; (3-20-20)

c. Records management in accordance with Idaho Court Administrative Rule 32; and (3-20-20)

d. Internal case review to ensure the quality of supervision and compliance with standards. (3-20-20)

03. Fidelity. Juvenile probation departments should demonstrate that practices adhere to department protocols and program models. (3-20-20)

04. Data. Juvenile probation departments should have policies and procedures to collect and analyze data on at least an annual basis that allows for an analysis of local trends in juvenile justice, measures recidivism, and evaluates any other identified department objectives. (3-20-20)

201. -- 299. (RESERVED)

300. STAFF QUALIFICATIONS AND STAFF DEVELOPMENT.

All juvenile probation departments will have written policy and procedures governing staffing, to include: (3-20-20)

01. Minimum Qualifications: (3-20-20)

a. Juvenile probation officers should meet and maintain the minimum standards of employment as provided in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council.” (3-20-20)

b. Juvenile probation officers should adhere to the Idaho Juvenile Probation Officer Code of Ethics and the Code of Ethics/Standards of Conduct as provided in IDAPA 11.11.01. (3-20-20)

02. Training and Staff Development: (3-20-20)

a. Juvenile probation departments should ensure staff training based on their written policy and procedures. The training should meet staff needs, be reviewed regularly, and address current trends. The training should also ensure that all juvenile probation officers earn the juvenile probation officer certificate as mandated in IDAPA 11.11.01. (3-20-20)

b. Juvenile probation officers should obtain at least twenty (20) hours of continuing education each year after certification as a juvenile probation officer. At least six (6) hours of annual continuing education should be on evidence-based/best practices in juvenile justice. (3-20-20)

c. Each juvenile probation department will maintain accurate documentation of continued training hours for each juvenile probation officer. (3-20-20)

301. -- 399. (RESERVED)

400. JUVENILE PROBATION SERVICES.

All juvenile probation departments shall operate in accordance with IDAPA 05.01.04 and have policies and procedures regarding the following: (3-20-20)

01. Balanced Approach Model. Supervision of juvenile offenders and services provided to juvenile offenders and their families should be based on the Balanced Approach Model. (3-20-20)

02. Engaging and Involving Families. Juvenile probation officers should document efforts to engage and involve a juvenile offender's family and/or other supportive individuals. (3-20-20)

03. Validated Risk Assessment. A validated risk assessment should be utilized to determine the criminogenic risk factors and needs of the juvenile offender. (3-20-20)

04. Assessments. Assessments should be utilized when applicable to assist in making recommendations to the Court and in developing individualized case plans. (3-20-20)

05. Risk and Need Classification. Risk assessment and supplemental assessment results should be used to recommend length of probation and to determine level and type of supervision, frequency of contact, and intensity of services. (3-20-20)

06. Case Management Plans. Individualized case management plans should focus on the most significant criminogenic risks as identified by the risk assessment and supplemental assessments. The plan should prioritize and address criminogenic risks, needs, and responsivity factors, rated moderate or higher, with special emphasis on addressing anti-social attitudes, values, and beliefs. Case management plans should be reviewed with the juvenile and/or their parent/guardian and updated, as needed, per department policy. (3-20-20)

07. Collateral Contacts. Juvenile probation officers should conduct collateral contacts and verify information about juvenile offenders that is important to the supervision process. (3-20-20)

08. Documentation. Juvenile probation officers should maintain timely and accurate records of each juvenile offender under supervision, consistent with the juvenile probation department policies. (3-20-20)

09. Evidence Based/Best Practices and Programs. Evidence-based/best practices and programs should be utilized to promote a greater likelihood of positive outcomes. (3-20-20)

10. Collaboration with Community Partners. Juvenile probation officers should collaborate with public and private agencies to assist juveniles and their families to obtain services and utilize community resources. These partners may include treatment providers, employment agencies, law enforcement, school systems, and other government and non-profit organizations. (3-20-20)

11. Court Reports. Reports should provide the Court pertinent information as well as sufficient detail regarding the risks and needs of the juvenile. (3-20-20)

a. Any recommendations contained in the report should address the needs of the juvenile including supervision, treatment, and other special conditions applicable based on the juvenile's risk. (3-20-20)

b. Information in reports should be verified to ensure accuracy and credibility of the information. (3-20-20)

c. Juvenile probation departments should have procedures to review and approve reports to ensure quality control and consistency (3-20-20)

d. All reports should be filed in a timely manner as determined by the Court and department policies. (3-20-20)

12. Use of Detention. Policies should reflect the risk/needs principle and the use of graduated sanctions. Alternatives to detention should be sought out for low-risk offenders. (3-20-20)

13. Physical Intervention. In the event a juvenile probation department authorizes the use of chemical agents or other weapons,

juvenile probation officers must be certified for their use by a certified instructor. Physical force used in instances of justifiable protection of the juvenile or others must be documented. (3-20-20)

14. Reporting of Abuse/Neglect. Physical and sexual abuse and neglect must be reported and documented in accordance with Section 16-1605, Idaho Code. (3-20-20)

15. Transfer of Cases. Transfer of cases should occur in accordance with chapter 5, Title 20, Idaho Code, and Idaho Juvenile Rule 10. (3-20-20)

a. Juvenile probation officers should communicate with the county where a juvenile will reside regardless of whether or not supervision will be requested. Such communication should occur as soon as a change in residence is determined. (3-20-20)

b. The juvenile probation department in the sending county should communicate, in writing, to the juvenile probation department in the receiving county regarding the supervision request. Information provided should include juvenile and guardian name, address, phone, school (if known), criminal history, disposition and terms, and conditions of supervision. (3-20-20)

c. In the event a juvenile is relocating to or from another state, the juvenile probation officer should comply with the provisions of the Interstate Compact for Juveniles, Chapter 19, Title 16, Idaho Code. (3-20-20)

16. Absconders. Reasonable steps should be taken to locate juvenile offenders who fail to report for probation supervision and whose whereabouts are unknown. (3-20-20)

17. Transportation of Juveniles. All juvenile probation officers who transport a juvenile will have a valid driver's license in good standing and valid proof of insurance. (3-20-20)

18. Release of Information. Information contained in probation files is confidential and may only be released in accordance with state and federal laws. Written policy and procedures should include what information can be provided, who should provide the information, and how it should be provided. (3-20-20)

19. Additional Policy and Procedures. Juvenile probation departments will establish written policy and procedures in accordance with their county policies regarding the following (if applicable):

(3-20-20)

- a.** Diversions; (3-20-20)
- b.** Victim and community restoration; (3-20-20)
- c.** Search and seizure; (3-20-20)
- d.** Drug testing; (3-20-20)
- e.** Probation violations; (3-20-20)
- f.** Medical emergencies; and (3-20-20)
- g.** Termination of cases. (3-20-20)

401. -- 499. (RESERVED)

IDAPA 05
Title 02, Chapter 01
Department of Juvenile Corrections

05.02.01 – Rules for Residential Treatment Providers (*AMENDED*)

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IDAPA 05
Title 02, Chapter 01
Department of Juvenile Corrections

05.02.01 - Rules for Residential Treatment Providers

000. LEGAL AUTHORITY.

These rules are adopted pursuant to Title 20, Chapter 5, and Title 16, Chapter 19, Idaho Code. (3-20-20)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 05.02.01, “Rules for Residential Treatment Providers.” (4-11-15)

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. These rules apply to residential treatment providers (Provider) that coordinate needed treatment services identified in individual service implementation plans. (3-20-20)

002. – 003. (RESERVED).

004. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Providers are juvenile records of the Idaho Department of Juvenile Corrections, and are subject to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-20-20)

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Assessment. The process of gathering information to determine risk and program needs for the purpose of guiding placement decisions and to develop the individualized treatment/service plan. (4-11-15)

02. Body Cavity Search. The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical health professional. (3-25-16)

03. Body Search, Clothed. Also referred to as a Pat Search. A search during which a juvenile offender is not required to remove their clothing, with the exception of such items as a jacket, hat, socks and shoes. (4-11-15)

04. Body Search, Unclothed. Also referred to as a Strip Search. A search conducted by a medical health professional during which a juvenile offender is required to remove all clothing. (3-20-20)

05. Clinical Supervisor. Person who supervises juvenile services coordinators and clinicians in assigned regions and reviews and approves case management documentation. This responsibility also includes oversight of the regional observation and assessment process and assisting in the maintenance and development of programs. (4-11-15)

06. Community Service Hours. Hours of community service performed by a juvenile offender in response to a court order or which may be imposed following a formal disciplinary process within a Provider program for damages to the facility or program. (3-20-20)

07. Community Treatment Team. A team including the juvenile services coordinator, Provider case manager, juvenile probation officer, family, and others, as necessary, who work together to provide input into each juvenile offender's service implementation plan, implement their respective sections of that plan, and monitor and report progress on treatment goals. (3-20-20)

08. Contraband. Any item not issued or authorized by the Provider. (3-20-20)

09. Confidential Information. Information that may only be used or disclosed as provided by state or federal law, federal regulations, or state rule. (4-11-15)

10. Criminogenic Risks and Needs. Assessed juvenile offender risk factors or attributes of juvenile offenders that are directly linked to criminal behavior and, when changed, influence the probability of recidivism. (4-11-15)

11. Education Plan. A written plan for general education students outlining the coursework they will complete each year towards meeting the Idaho Content Standards recommended coursework for their

grade level based on assessed academic, emotional, developmental and behavioral needs, and competencies. Students qualifying for Individuals with Disabilities Education Act (IDEA) services will have an Individual Education Plan (IEP) in lieu of an education plan. (3-20-20)

12. Escape/Attempted Escape. Attempting to leave or leaving a facility without permission, or attempting to leave or leaving the lawful custody of any officer or other person responsible for juvenile's supervision without permission. (4-11-15)

13. Facility. The physical plant associated with the operation of residential or nonresidential programs. (4-11-15)

14. Facility Treatment Team. The group of staff employed by the Department or by the Provider who have input into developing the juvenile offender's service implementation plan, who provide direct services to juvenile offenders, and who monitor and report on the progress on meeting the goals in that plan. The facility treatment team is responsible for working with the community treatment team to develop and implement the service implementation plan. (3-20-20)

15. General Education Student. A student who does not qualify for special education services under the IDEA. (3-20-20)

16. Health Services. Including, but not limited to, routine and emergency medical, dental, optical, obstetrics, mental health, or other related health service. (3-20-20)

17. Incident Report. A written document reporting any occurrence or event, or any other incident, which threatens the safety and security of staff, juvenile offenders or others, or which threatens the security of the program and which requires a staff response. (4-11-15)

18. Independent Living Services. Services that increase a juvenile offender's ability to achieve independence in the community. (3-20-20)

19. Individual Community Pass. Any instance in which a juvenile offender leaves the Provider's facility for a planned activity, without direct supervision by at least one (1) Provider or Department staff. Regular school or work attendance, regular participation in off-site treatment sessions or groups and other regular off-site activities

specifically included in the service implementation plan or written reintegration plan and approved by the juvenile services coordinator are not included in this definition. Individual community passes include, but are not limited to: (3-20-20)

- a. Day passes with family or other approved individuals; (3-20-20)
- b. Day or overnight home visits; (3-20-20)
- c. Recreational activities not otherwise approved as a part of a group activity; and (3-20-20)
- d. Funeral leave. (3-20-20)

20. Individual Education Plan (IEP). A written document (developed collaboratively by parents and school personnel) which outlines the special education program for a student with a disability and is based on assessed academic, emotional, developmental, and behavioral needs and competencies. This document is developed, reviewed, and revised at an IEP meeting at least annually. (3-20-20)

21. Interns. A paraprofessional staff who is pursuing a degree and who, as a part of documented coursework with a college or university, may provide counseling or other services to juvenile offenders in the Department's custody or their families, under direct supervision of qualified staff. (4-11-15)

22. Juvenile Records. Information concerning the juvenile offender's delinquent or criminal, personal, and medical history, behavior and activities. (4-11-15)

23. Juvenile Services Coordinator. An employee of the Department assigned to a particular juvenile as the case worker, licensed in social work. (3-20-20)

24. Mechanical Restraints. Mechanical devices used to prevent an uncontrollable juvenile offender from injuring themselves or others. (4-11-15)

25. Medical Health Assessment. A thorough review to determine a juvenile offender's comprehensive health needs. This

information is used to develop the medical terms of a juvenile offender's service plan. (3-20-20)

26. Medical Health Professional. An individual who meets the applicable state's criteria as a licensed LPN, RN, nurse practitioner, physician assistant, physician or the equivalent. (4-11-15)

27. Medical Health Screening. A process used to quickly identify a juvenile offender's immediate health needs and to determine if there are any immediate needs related to a chronic health condition. (3-20-20)

28. Mental Health Assessment. A thorough review to determine a juvenile offender's comprehensive mental health needs. This information is used to develop the mental health terms of a juvenile offender's service plan. (3-20-20)

29. Mental Health Professional. An individual who possesses a master's degree and meets the applicable state's criteria as a licensed LPC, LMFT, LCPC, LCSW, LMSW, psychologist or the equivalent. (4-11-15)

30. Mental Health Screening. A process used to quickly identify a juvenile offender's immediate mental health needs and to determine if there are any immediate needs related to a chronic mental health condition. (3-20-20)

31. Observation and Assessment Evaluation. Written documentation of assessment tool results, observations, interviews, risks, and any special considerations resulting in the creation of the service plan, which includes the initial reintegration plan. (4-11-15)

32. Physical Restraint. Any method of physical control of a juvenile offender that involves staff touching or holding a juvenile offender to limit or control the juvenile offender's actions. (4-11-15)

33. Prison Rape Elimination Act of 2003 (PREA). Public Law No. 108-79, including all subsequent amendments thereto as codified in 34 U.S.C. §§ 30301-30309, and all federal rules and standards promulgated thereunder, which promote zero (0) tolerance of sexual abuse of juvenile offenders by staff or by other juvenile offenders. (3-20-20)

34. Privileged Mail. Mail between the juvenile offender and their attorneys, legal aid services, other agencies providing legal services to juvenile, or paraprofessionals having legitimate association with such agencies; judges and clerks of federal, state and county courts; public officials and their authorized representatives acting in their official capacities; and the communications with clergy of the juvenile's faith. (03-20-20)

35. Program Director. The administrator of the residential treatment provider for juvenile offenders. (4-11-15)

36. Progress Report. A written report summarizing progress toward the goals and objectives set in the service implementation plan. (4-11-15)

37. Quality Improvement Services Bureau. Department employees responsible for overseeing Provider's compliance with contract terms and these rules. (3-20-20)

38. Referral Packet. The information necessary for a potential residential treatment provider to determine whether the program can appropriately meet the identified criminogenic risks and needs of the juvenile being referred. (4-11-15)

39. Region. Subunits of the Department organized by geographical areas and including all services and programs offered by the Department in that area. (4-11-15)

40. Regional Facility. Department-operated juvenile correctional centers located in each region of the state. (4-11-15)

41. Reintegration Placement. The placement of a juvenile offender receiving independent living and reintegration skills services from the Provider. This placement may be with a host family, in a group setting, or in an apartment. (3-20-20)

42. Reintegration Plan. That part of the juvenile offender's service plan which specifically addresses the terms, conditions, and services to be provided as the juvenile offender moves to a lower level of care or leaves the custody of the Department. (4-11-15)

43. Relapse Prevention Plan. A document completed by the juvenile, used to identify interventions for problem behavior, positive supports, and high-risk people and places. (4-11-15)

44. Release from Department Custody. Termination of the Department's legal custody of a juvenile. (4-11-15)

45. Residential Treatment Provider. Also known as Provider. A residential program under contract with the Department to supervise juvenile offenders and provide accountability and competency development in the least restrictive setting, consistent with public safety. (4-11-15)

46. Restitution. Financial payment intended to reimburse victims for loss, damage, or harm caused by a juvenile offender. Restitution must be court ordered. Providers may not impose restitution against a juvenile offender without a court order. (4-11-15)

47. Restricted Clinical Information. Any record, document, or other information legally protected from dissemination to the general public by statute or rule, such as psychological evaluations, therapy notes, therapy journals, sex histories, polygraph results, psychological testing, or other legally confidential information. (4-11-15)

48. Room Confinement. Instances in which juvenile offenders are confined in the room in which they usually sleep, rather than being confined in an isolation room. (4-11-15)

49. Separation or Isolation. Any instance when juvenile offenders are confined alone for over fifteen (15) minutes in a room other than the room in which they usually sleep. (4-11-15)

50. Service Implementation Plan. A written document produced and regularly updated by a Provider with input from the community treatment team. This plan describes interventions and objectives to address the service plan goals including the areas of community protection, accountability, and competency development. (3-20-20)

51. Service Plan. A written document produced during the observation and assessment period following commitment to the Department that defines the juvenile offender's criminogenic needs and

risks, strengths, goals, and recommendations for family and reintegration services. The service plan addresses the relevant needs and services for each juvenile offender in areas such as mental health, medical, education, substance abuse, and social skills. (4-11-15)

52. Sexual Abuse. Includes any type of contact, that is sexual in nature and directed toward a juvenile offender by staff or by juvenile offenders as well as sexual harassment, which includes repeated and unwelcomed sexual advances, comments, gestures, voyeurism, implied threats, and coercion. (4-11-15)

53. Staffings. Regularly scheduled meetings of the community and facility treatment team members to review progress on treatment goals and objectives identified in each juvenile offender's service implementation plan. (4-11-15)

54. Subcontractor. A person or business which has contracted with the Provider for provision of some portion of work or services. (3-20-20)

55. Suicide Risk Assessment. An evaluation performed by a mental health professional to determine the level of immediate risk of a juvenile offender attempting suicide, and to apply this information in developing a safety plan for the juvenile offender. (4-11-15)

56. Suicide Risk Screening. An evaluation used to quickly determine, based upon known history and current behavior, whether a juvenile offender presents any identifiable risk of immediate suicidal behavior, and to call in a mental health professional to complete a suicide risk assessment. (4-11-15)

57. Superintendent. The person who has responsibility and oversight of a regional facility and over the region of the state where the regional facility is located. (4-11-15)

58. Transfer. Any movement of a juvenile offender in the custody of the Department from one (1) Provider to another without a release from Department custody. (3-20-20)

59. Treatment. Any program of planned services developed to meet risks and needs of juvenile offenders and their families, as identified in an assessment, and as related to activities designed to teach

alternate behaviors and to support change in the beliefs that drive those behaviors. Treatment as referenced in this context also includes the maintenance of conditions that keep juvenile offenders, staff, and the community safe. (4-11-15)

60. Variance. The means of complying with the intent and purpose of a Provider rule in a manner other than that specifically prescribed in the rule. (3-20-20)

61. Vocational Services. Any service provided related to assessment, education, guidance, or training in the area of work or basic living skills. (4-11-15)

62. Volunteer. A person from the community who freely chooses to do or provide both direct and indirect services to juvenile offenders or staff at a facility or juvenile correctional center. This person is not compelled to do so and is not compensated for the services. (3-20-20)

63. Waiver. The non-application of one (1) or more of these rules based upon a request by the Provider and a written decision issued by the Department. (3-20-20)

011. -- 099. (RESERVED)

SUBCHAPTER A – RULES FOR ALL RESIDENTIAL TREATMENT PROVIDERS

100. INITIATION OF SERVICES.

Juveniles are committed to the Department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-547, Idaho Code). (4-11-15)

101. WAIVER AND VARIANCE.

Minimum program standards established herein apply to all services provided by the Provider. A waiver and variance from the standards stated in these rules must receive prior written approval from the Department and must be attached as a formal amendment to the contract. (3-20-20)

102. APPLICABILITY.

This chapter applies to all Providers that coordinate needed treatment services identified in individual service implementation plans. Providers must also abide by Subchapter B, “Rules for Staff Secure Providers” and Subchapter C, “Rules for Reintegration Providers,” as applicable. (3-20-20)

103. -- 109. (RESERVED)

110. AUTHORITY TO INSPECT.

01. Inspections. The Department has the authority to conduct reviews of programs, program operations, and facilities to ensure the Provider's compliance with these rules. The Provider shall cooperate with the Department's review, and provide access to the program or facility and all juvenile records for juveniles in Department custody, as deemed necessary by the Department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available, upon request. (3-20-20)

02. Notification of Program Changes. Providers must notify the Department as soon as possible, but no later than thirty (30) calendar days, before there is a change in the name of the organization, type of service, characteristics of juveniles being served, changes in the licensed capacity of the program, closure of the program, changes in ownership or in the organizational structure. (3-20-20)

03. Emergency Closure of Program. In the event of a natural disaster, fire, flood, or other emergency in which the Provider may be closed temporarily, the Provider will immediately notify the regional juvenile correctional center in its respective region. (3-20-20)

04. Notification of Death of a Juvenile Offender. In the event of the death of a juvenile who is in the Department's custody, the Provider must immediately notify the regional facility, juvenile offender's parent or guardian, and law enforcement. Other notifications will be coordinated between the Provider and the Department. (3-20-20)

05. Additional Incident Reporting. The Provider must report to the Department all incidents of the type normally requiring immediate notice to the Department, as identified in Subsection 156.01, that occur in their program or facility regardless of whether or not the juveniles involved are in the Department's custody. Any such reports regarding juveniles not in Department custody must include the type and scope of the incident without any information identifying the juvenile, and be made available to the Department's Quality Improvement Services bureau. (3-20-20)

a. The Provider must report to the Department all incidents of staff misconduct relating to juvenile care and that result in any type of suspension or termination of employment, revocation or suspension of a professional license, or revocation or suspension of driver's license of any staff who transports juveniles. (3-20-20)

b. All instances of battery committed on staff must be documented and, whenever appropriate, charges filed with the appropriate authorities. Each such incident must be reported to the juvenile offender's juvenile services coordinator as an incident report according to Subsection 156.01 of these rules. (4-11-15)

06. Additional Reporting Requirements. The Provider shall maintain the overall safety, security, and order of a program for the protection and well-being of the juvenile offenders at all times. Therefore in situations where the Department has determined necessary to ensure compliance, more frequent and more detailed reporting may be required by the Quality Improvement Services Bureau. (3-20-20)

111. COMPREHENSIVE AND CURRENT PROGRAM DESCRIPTION.

01. Program Description. Providers must provide, and keep current with the department, a program description detailing the range of services to be provided and the methods for providing these services. (3-20-20)

02. Minimum Requirements. At a minimum, the program description must include: (4-11-15)

a. Target population and specific admission criteria; (4-11-15)

b. Primary and secondary treatment modalities; (4-11-15)

c. Outline of daily schedules for juvenile offenders and staff; (4-11-15)

d. Description of educational services provided; (3-20-20)

e. Description of emergency and routine medical and mental health services, including psychotropic medication monitoring, unless this population is specifically excluded from admission to the program; (4-11-15)

f. Description of religious services, recreation services, and other specialized services provided, as indicated by the needs of the identified target population; (4-11-15)

g. Written criteria for successful completion of the program and written criteria for termination from the program prior to completion; (4-11-15)

h. A thorough description of all services offered as a part of the program, including a description of the frequency of service delivery; (4-11-15)

i. A detailed description of each individual treatment intervention, such as treatment group, psycho-educational group, cognitive restructuring group, and peer group including: (4-11-15)

i. The overall goals of the treatment intervention or service area; (4-11-15)

ii. The average length, total length, and number of sessions in the treatment intervention or service area; (4-11-15)

iii. The facilitator education and training requirements; and (4-11-15)

iv The specific curriculum used in the treatment intervention or service area. (4-11-15)

j. A detailed description of the behavior management component of the program. (4-11-15)

112. DISPOSITION OF REFERRALS FROM THE DEPARTMENT.

A juvenile offender's admission into the program shall be based on an assessment of the juvenile offender's strengths, risks, needs, and on the anticipated ability of the program to reasonably address those issues. Providers must ensure that the juvenile offender and parent or guardian are provided an opportunity to participate in the admission process and related decisions. (3-20-20)

01. Accepting Referral. Upon receipt of a complete referral packet from the Department, the Provider has four (4) business days in

which to decide whether to accept or decline the referral. Upon acceptance, the Referral Acceptance/Denial Form must be completed, signed, and returned to the regional referral coordinator. By accepting the referral, the Provider agrees to address the identified treatment goals and the anticipated length of stay. Once the acceptance has occurred, the juvenile offender's transportation will be made. (3-20-20)

02. Declining Referral. If a Provider denies a referral, the specific reason for denial must be documented on the Department's Referral Acceptance/Denial Form and the form returned to the regional referral coordinator. The Provider must then destroy the referral packet. (3-20-20)

03. Change in Admission Criteria. Any change in the Provider's admission criteria must be reflected in the Provider's admission policy and requires a written amendment to the contract with the Department. Temporary exceptions are covered under Section 101 of these rules. (3-20-20)

04. Reservation of Program Slots. When a program slot is to be reserved, the Department will contact the Provider and request that the slot be reserved. Unless the Department gives specific approval, the maximum time for which a program slot may be reserved, and the Provider continue to receive payment, is forty-eight (48) consecutive hours. (3-20-20)

113. SAFETY AND MAINTENANCE OF BUILDINGS AND GROUNDS.

01. Compliance with State and Local Codes and Ordinances. The Provider must maintain compliance with all state and local building, life safety, and zoning requirements and make documentation of compliance available to the Department. (3-20-20)

02. Accessibility. The program buildings, parking lots, and other structures must provide access as required by the Americans with Disabilities Act, as amended, and other applicable federal and state laws and regulations. (4-11-15)

03. Maintenance. The Provider must ensure that all structures are maintained, are in good repair, and are free from hazards to health and safety. The grounds must also be maintained and be free from any hazard

to health and safety. The Provider must have a written plan for preventive and ongoing maintenance of its building and grounds. (3-20-20)

04. Construction Considerations. When designing or acquiring any new program or facility and in planning any substantial expansion or modification of existing facilities, the Provider shall consider the effect of the design, acquisition, expansion, or modification upon the Provider's ability to protect residents from any harm, including sexual abuse. (3-20-20)

05. Program Safety. Each Provider must have a designated staff member who is responsible for the safety of the program. This individual must conduct monthly inspections of the program, with copies of the inspections kept on file for review by the Department, to identify: (3-20-20)

- a. Fire safety; (4-11-15)
- b. Existing hazards; (4-11-15)
- c. Potential hazards; and (4-11-15)
- d. The corrective action that should be taken to address these hazards. (4-11-15)

06. Emergency Procedures. The Provider will utilize and maintain a current emergency procedure manual, which includes, at a minimum, procedures pertaining to: (3-20-20)

- a. Fire safety and escape; (4-11-15)
- b. Emergency medical care; (4-11-15)
- c. Notification and filing charges on escape; (4-11-15)
- d. Incidents of violence within the program; (4-11-15)
- e. Suicide prevention; (4-11-15)
- f. Child abuse reporting; and (4-11-15)
- g. Sexual abuse disclosures. (4-11-15)

114. VEHICLES.

01. Condition. Vehicles used to transport juveniles must be mechanically sound, in good repair, and meet the Department's requirements for insurance coverage. (4-11-15)

02. Compliance with Applicable Laws. All vehicles must possess current state licenses and comply with all applicable state laws. When in use, all vehicles must carry a standard first aid kit and a fire extinguisher. (4-11-15)

03. Maintenance and Equipment Checklist. The Provider must have a vehicle maintenance and equipment checklist, which includes a listing of all critical operating systems and equipment inspections, the date of the last inspection, and the type of service or action taken. All repairs required to critical operating systems, such as brakes and headlights, must be made immediately. All worn or missing critical equipment such as tires, jacks, and seat belts must be replaced immediately. (3-20-20)

115. TRANSPORTATION.

01. Transportation for Service Plan. The Provider will provide all transportation associated with the juvenile offender's service implementation plan. The family may be relied upon to provide transportation for passes and some other community contacts as long as this does not present any undue risk or burden to the juvenile offender, family, or community. (3-20-20)

02. Transportation for Court Proceedings. The Provider and the juvenile services coordinator will make timely arrangements for transportation related to court appearances, and for transfer or release of juvenile offenders from Department custody. (3-20-20)

116. DRIVERS.

01. Juvenile Transport. All drivers of vehicles transporting a juvenile offender must possess a valid driver's license from the applicable state and the proper licenses required by state law for the type of motor vehicle operated. All such operators' driving records must be checked through the Department of Motor Vehicles for the preceding three (3) years and annually after date of hire. During that time, the operator

must not have had any felony traffic convictions or withheld judgments. Any incidents of suspended licenses during that time must be specifically reviewed by the Provider. Personnel files must contain evidence of training to transport a juvenile offender as well as other appropriate documentation. (3-20-20)

02. Parent or Guardian Transport. When parents or guardians are allowed to transport a juvenile offender for any reason, the Provider will ensure that the individual possesses a current and valid driver's license and insurance coverage. (3-20-20)

117. -- 119. (RESERVED)

120. ADMINISTRATIVE RECORDS.

01. Documentation Retention. The Provider must document and retain documentation of all information related to the following items: (3-20-20)

a. Program consultation provided, such as technical assistance on program design and implementation; (4-11-15)

b. Training provided to staff; (4-11-15)

c. All alleged instances of child abuse; (4-11-15)

d. Program audits or reviews, including corrective actions required and taken; (4-11-15)

e. Reports of sexual abuse disclosures to the applicable state licensing authority or law enforcement; (4-11-15)

f. Juvenile offender and staff grievances; (4-11-15)

g. Copies of all completed incident reports; and (4-11-15)

h. Copies of background checks for all current employees, contractors, volunteers, and interns who may have contact with residents. (4-11-15)

02. Employee Files. Employee personnel files must contain the following: (4-11-15)

- a.** Minimum qualifications for the job held; (4-11-15)
- b.** Hiring information; (4-11-15)
- c.** Copies of all required licenses or certificates related to the job function; (4-11-15)
- d.** Copies of academic credentials, driving record, and background checks, as required by state law; (3-20-20)
- e.** Current training records; and (4-11-15)
- f.** Performance evaluations and copies of personnel actions, such as disciplinary action taken and acknowledgements of outstanding performance. (4-11-15)

121. STAFF QUALIFICATIONS.

01. Licenses. All individuals providing services to juveniles in the custody of the Department must possess all licenses or certifications for their particular position as required by statute, rule, or by the applicable state licensing authority. (4-11-15)

02. Education or Experience. All individuals providing services must be qualified to do so, based on knowledge, skills, and abilities. In addition, certain program and professional caregivers must meet specific minimum standards for education or experience. These standards constitute, in part, the basis for determining the adequacy of program and professional services delivered under contractual agreement with the Department. (3-20-20)

03. Position Descriptions. Providers must maintain written position descriptions for every job class established in the organization. In all cases, the particular job titles used by the Provider to provide counseling, therapy, direct care, and supervision of juvenile offenders, as well as staff supervision and management, must be specifically cross-referenced with the job titles in these rules. (3-20-20)

122. POSITION DESCRIPTIONS AND QUALIFICATION CRITERIA.

01. Clinician, Counselor, or Therapist. An individual, who conducts a comprehensive assessment of the psychological, behavioral, social, or familial deficits or dysfunctions presented by the juvenile offender, then establishes and implements a plan for therapeutic services. The plan must specify diagnosis and treatment of problems to be addressed, an estimate of the time needed, and a schedule of the frequency and intensity of the services to be provided. The individual may also provide individual, group, or family counseling. At a minimum, the individual must have a master's degree and be currently licensed by the applicable state as a Licensed Professional Counselor (LPC), Licensed Marriage and Family Counselor (LMFT), Licensed Master Social Worker (LMSW), or certified school psychologist. (4-11-15)

02. Juvenile Services Coordinator or Social Worker. An individual who is responsible for the assessment of treatment progress, and the provision and monitoring of therapeutic or rehabilitative treatment services to juvenile offenders participating in a treatment program. Individuals providing this function must possess, at a minimum, a bachelor's degree from a fully accredited college or university in social work, psychology, or counseling and must be licensed as a social worker in the applicable state. (4-11-15)

03. Recreational Specialist. An individual who develops and implements an individualized and goal-directed recreational plan for a juvenile offender in connection with the overall service implementation plan. The individual providing this function must possess a bachelor's degree in recreational therapy, health and physical education, or a related field, or have a high school diploma and two (2) years related experience in providing recreational services to juvenile offenders. (4-11-15)

04. Rehabilitation Specialist or Facility Case Manager. An individual, under direct supervision, who assists the juvenile offender in implementing the service implementation plan, evaluates the juvenile offender, and maintains the case record with respect to all nonclinical matters. The rehabilitation specialist or facility case manager also assists in presenting the case in staffings, communicates with appropriate individuals, including community interests, regarding the juvenile offender, and prepares written communications, under supervision, including final progress reports. The rehabilitation specialist or facility

case manager may also serve as the social worker if properly licensed in the applicable state. Individuals providing this function must possess a bachelor's degree from a fully accredited college or university in the social sciences or a related field, or have a high school diploma and four (4) years related experience in providing services to juvenile offenders. (4-11-15)

05. Rehabilitation Technician or Direct Care Worker. An individual who is responsible for providing individual or group rehabilitative therapeutic services, supervising juvenile offender's day-to-day living activities and performing such duties as preparing nutritious meals, supervising and training juvenile offenders in basic living skills, and providing some community transportation. Such individual must have a high school diploma or its equivalent. (4-11-15)

06. Special Education Teacher. An individual who provides a modified curriculum for those students who are eligible for services under the IDEA. This individual must hold a valid standard exceptional child certificate with an endorsement as a generalist. (4-11-15)

07. Teacher. An individual who provides basic educational services as required by state and federal statutes. This individual must hold a valid teaching credential in the appropriate instructional field. (4-11-15)

123. PROGRAM STAFFING REQUIREMENTS.

01. General Staffing Ratios. The Provider must ensure that an adequate number of qualified staff are present at all times to provide rehabilitation and treatment services, supervise juvenile offenders, and provide for their health, safety, and treatment needs. Staffing patterns must ensure that professional staff is available to juvenile offenders at all times when they are in the program. The Provider staff should provide consistency and stability so that the juvenile offenders know the roles of each staff member. Specific staffing ratios shall be determined in each contract and must be based on the level of intervention of the program and the risk level of the juvenile offender population. (3-20-20)

02. Emergency Staffing Ratios. At all times, at least one (1) staff member on duty per twenty (20) juvenile offenders in the program must be currently certified to administer first aid and cardiopulmonary resuscitation (CPR). (4-11-15)

124. GENERAL REQUIREMENTS FOR TRAINING.

01. Training Plan. Training for staff must be conducted in accordance with a written plan approved by management and coordinated by a designated staff member that includes: (3-20-20)

a. Annual in-service training for all staff to include, but not be limited to: (4-11-15)

i. Identifying and responding to suicide risk; (4-11-15)

ii. Infectious diseases, blood borne pathogens, and universal precautions; (3-20-20)

iii. All training as outlined in section 115.331 of the Prison Rape Elimination Act (PREA) standards; (4-11-15)

iv. Prohibition of abuse and mandatory reporting of abuse; (4-11-15)

v. De-escalation of juvenile behavior and appropriate physical restraint techniques; and (4-11-15)

vi. Incident Reporting (4-11-15)

b. Those areas of practice and operations requiring a current certification; (4-11-15)

c. Prior to being assigned sole responsibility for supervision of juvenile offenders, rehabilitation technicians or direct care staff must have training in the following areas: (4-11-15)

i. Principles and practices of juvenile care and supervision; (4-11-15)

ii. Program goals and objectives; (4-11-15)

iii. Juvenile offender rights and grievance procedures; (4-11-15)

iv. Procedures and legal requirements concerning the

reporting of abuse and critical incidents and compliance with the PREA, as outlined in these rules; (4-11-15)

v. Infectious diseases, blood borne pathogens, and universal precautions; (3-20-20)

vi. Handling of violent juvenile offenders (use of force or crisis intervention); (4-11-15)

vii. Security procedures (key control, searches, contraband); (4-11-15)

viii. Medical emergency procedures, first aid, and CPR; (4-11-15)

ix. Incident reporting; (4-11-15)

x. How to recognize and respond to suicidal behavior; (4-11-15)

xi. How to access emergency medical and mental health care; (3-20-20)

xii. Proper storage and dispensing of medications, as well as general signs and symptoms of adverse reactions, including identification of the individual who will dispense medications in the facility; (4-11-15)

xiii. Appropriate response to health-related emergencies; (4-11-15)

xiii. Ethics and professional boundaries; and (4-11-15)

xiv. Appropriate and safe transportation of all juvenile offenders. (4-11-15)

d. In-service training for all first-year staff must include: (4-11-15)

i. Program policies and procedures; (4-11-15)

ii. Job responsibilities; (4-11-15)

- iii. Juvenile offender supervision; (4-11-15)
- iv. Safety and security emergency procedures (fire, disaster, etc.); (4-11-15)
- v. Confidentiality issues including the Health Insurance Portability and Accountability Act of 1996 (HIPAA); (4-11-15)
- vi. Behavioral observation, adolescent psychology and child growth and development; (4-11-15)
- vii. Effective interventions with juvenile offenders including criminogenic risk and need factors; (4-11-15)
- viii. Juvenile Corrections Act, balanced and restorative justice, this chapter, and Department rules applicable to the specific type of residential treatment provider; (4-11-15)
- ix. Basic security procedures; (4-11-15)
- x. Signs and symptoms of chemical use or dependency; (4-11-15)
- xi. Drug-free workplace; (4-11-15)
- xii. Diversity training to include cultural awareness; and (4-11-15)
- xiii. Juvenile offender searches for contraband. (4-11-15)

02. Trainer Qualifications. (4-11-15)

a. Individuals who provide instruction in areas of life, health, and safety, including but not limited to first aid, CPR, and physical intervention techniques, will have appropriate certification, which must be documented in their personnel or training file. (4-11-15)

b. Individuals who provide instruction in treatment must have appropriate training, education, and experience documented in their personnel or training file. (3-20-20)

03. Documentation of Training. Staff and volunteer training

records must be maintained by a designated staff member and include:
(3-20-20)

- a. Name; (4-11-15)
- b. Job title; (4-11-15)
- c. Employment beginning date; (4-11-15)
- d. Annual training hours required; and (4-11-15)
- e. A current chronological listing of all training completed.
(4-11-15)

04. Training Records. Training records may be kept separately within each individual personnel file or in a separate training file. Access to curriculum materials must be made available. (4-11-15)

125. SUBCONTRACTORS, VOLUNTEERS, AND INTERNS.

The Provider will identify the intended use of the subcontractor, volunteer, or intern. If the subcontractor, volunteer, or intern is providing direct services to juveniles, the Provider must adhere to the rules in this Section. The Provider must notify the Department's Quality Improvement Services Bureau promptly, in writing, of any proposed changes in the use of subcontractors, volunteers, or interns providing direct services to juveniles.
(3-20-20)

01. Subcontractors. The Provider will ensure that any subcontractor providing direct services to juveniles meets at least the minimum staff qualifications and terms of the original contract and these rules. The Provider must maintain a list of all subcontracted service providers and their qualifications. Documentation of services provided by subcontractors must include the scope and frequency of services.
(3-20-20)

02. Volunteers and Interns. Programs should consider soliciting the involvement of volunteers and interns to enhance and expand their services. However, volunteers and interns recruited to supplement and enrich a program may not be substituted for the activities and functions of program staff. Volunteers and interns must not be assigned sole supervision of juvenile offenders.
(4-11-15)

a. Programs that utilize volunteers and interns regularly must have a written plan that includes stipulations for their use and training, and training of program staff on the role of volunteers and interns. Training provided must include all of the information necessary for the volunteers and interns to successfully perform their roles within the program. (4-11-15)

b. Recruiting of volunteers is conducted by the program director or designee. Recruitment is encouraged from all cultural and socio-economic segments of the community. (4-11-15)

c. Volunteers and interns must complete an application for the position and be suited for the position to which they are assigned. (4-11-15)

d. Written job descriptions must be provided for each volunteer and intern position. (4-11-15)

e. Interns must be documented to be enrolled in an accredited school or program for the profession. (4-11-15)

f. Interns must have a fully developed internship or practicum agreement, which details their activities for the period, and relates these to learning objectives developed with the academic institution and program in which they are enrolled. The internship agreement must include the signatures of the intern, supervising residential treatment provider staff, and a representative of the academic institution in which the intern is enrolled. (4-11-15)

g. Interns must agree in writing to abide by all policies and standards of conduct, and agree to meet the ethical standards for the profession for which they are training. (4-11-15)

h. Volunteers and interns must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position. (4-11-15)

i. Volunteers and interns must agree in writing to abide by all program policies. (4-11-15)

03. Subcontractor, Volunteer, and Intern Requirements. Subcontractors, volunteers, and interns who perform professional services

must be licensed or certified as required by state law or rule, or, be documented to be supervised directly by staff meeting those credentials. (4-11-15)

a. Subcontractors, volunteers, and interns must have background and criminal record checks as prescribed by state law. (4-11-15)

b. Minimum training for subcontractors, volunteers, and interns must include the following: (4-11-15)

i. Program goals and objectives; (4-11-15)

ii. The role of the subcontractor, volunteer, or intern and job duties or duties related to the learning plan; (4-11-15)

iii. Subcontractor, volunteer, or intern's role in reporting incidents of sexual abuse under PREA, as outlined in these rules; (4-11-15)

iv. Basic security procedures; (4-11-15)

v. Recognizing suicidal behaviors; (4-11-15)

vi. Confidentiality issues including the Health Insurance Portability and Accountability Act of 1996 (HIPAA); and (4-11-15)

vii. Ethics and mandatory reporting of juvenile abuse. (4-11-15)

04. Volunteers of Minimal Use. Volunteers who meet all of the following criteria may be excluded from Subsection 125.03.a. and Subsection 125.03.b.: (4-11-15)

i. Use of the volunteer by the Provider does not exceed four visits per year; (3-20-20)

ii. Use of the volunteer by the Provider does not exceed four hours per visit; and (3-20-20)

iii. The volunteer is under constant personal supervision of at least one staff member of the Provider during their visit. (3-20-20)

05. Documentation. The Provider must maintain individual personnel files for each volunteer and intern working in the program. The files must contain all documentation of meeting requirements, as described in Subsection 125.03 of these rules. (3-20-20)

06. Supervision of Volunteers. Volunteers will be supervised at all times by a staff member of the Provider who coordinates and directs the activities of the volunteer and evaluates their performance periodically. (3-20-20)

07. Supervision of Interns. An intern will be supervised by a paid employee of the Provider who has the licenses and credentials required by state law and who has been accepted by the intern's school as an appropriate supervisor for the discipline of instruction. This individual shall coordinate and direct the activities of the intern and evaluate their performance periodically. (3-20-20)

08. Termination. The Provider must establish a procedure for the termination of volunteers and interns. Termination of interns shall be in collaboration with the academic institution and program in which they are enrolled. (3-20-20)

126. BACKGROUND CHECKS.

The Provider must ensure that all employees, subcontractors, interns, and volunteers, with the exception of those listed in Subsection 125.04 of these rules, have undergone a criminal background check every five (5) years in the manner and form required by IDAPA 16.05.06, "Criminal History and Background Checks." In addition to the crimes listed resulting in unconditional denial, any crime not specified there that requires registration on the sex offender registry in Idaho, or any other state, will also result in an unconditional denial of employment for direct care or services, or assignment where the employee would have any opportunity to have contact with a juvenile offender in the Provider's care, including as a volunteer or intern. Documentation of background checks must be kept in confidential employee personnel files. (3-20-20)

127. -- 129. (RESERVED)

130. JUVENILE RECORDS.

01. Case Management Documents. The Provider must

maintain individual files on all juvenile offenders, which include:
(3-20-20)

a. Observation and assessment evaluation provided by the
Department; (4-11-15)

b. Additional assessments; (4-11-15)

c. Service implementation plans; (4-11-15)

d. Progress reports; (4-11-15)

e. Incident reports; (4-11-15)

f. Court documents and dispositions; (4-11-15)

g. Professional correspondence; (4-11-15)

h. Restricted clinical information, kept separately;(3-20-20)

i. Medical records, kept separately; (3-20-20)

j. Educational records and school history, kept
separately; (3-20-20)

k. Relapse prevention plan; (4-11-15)

l. Identifying information and physical descriptions;
(4-11-15)

m. Last known parent or guardian address and telephone
number; (4-11-15)

n. Date of admittance and projected release from the
Provider; and (3-20-20)

o. Records of juvenile offender's earnings, restitution
payments, and community service hours earned; (4-11-15)

02. Confidentiality. (4-11-15)

a. Sections 20-525 and 9-340(2)(b), Idaho Code, and Idaho

Court Administrative Rule 32 provide for confidentiality, under certain conditions, of records that contain information about juvenile offenders. (4-11-15)

b. All matters relating to confidentiality of juvenile offender files must also comply with the federal HIPAA and 42 CFR Chapter 1, Sub-Chapter A, Part 2, “Confidentiality of Alcohol and Drug Abuse Patient Records.” (4-11-15)

c. Restricted clinical information, as defined, and education and medical records must each be filed separately and stored in a secured area. (4-11-15)

d. For Providers that serve sex offenders, individual treatment assignments, such as journals and detailed sexual histories, must be destroyed at the time the juvenile offender is transferred or released from the program. (3-20-20)

e. The Provider must have written policies and procedures to address the confidentiality of juvenile offender records. In compliance with HIPAA’s privacy regulations, written procedures shall designate a privacy officer who will: (3-20-20)

i. Supervise the maintenance of identifiable personal health care information; (4-11-15)

ii. Serve as custodian of all confidential juvenile offender records; and (4-11-15)

iii. Determine to whom records may be released. (4-11-15)

03. Automated Records. Automated records must include a procedure to ensure confidentiality and be in compliance with any state or federal privacy laws pertaining to those records including provisions for backing up automated records. (3-20-20)

04. Restrictions to Records Access. (4-11-15)

a. Access to personal health information must be limited to: (4-11-15)

i. Employees of the Department and the Provider to the extent necessary to perform normal business functions including health treatment and other functions designed to maintain the good order, safety, and security of the juvenile offenders or the program; (3-20-20)

ii. Individuals participating in a staffing for a juvenile offender, who have a direct need to know the information, and who are obligated to or promise to maintain the confidentiality of information disclosed. These individuals may include employees or representatives of law enforcement, the Department, the Provider, probation officer, medical or mental health professionals, and other appropriate individuals; and (3-20-20)

iii. Law enforcement members, emergency medical personnel, the Idaho Department of Health and Welfare or the applicable state licensing authority, and similar court or government officials, as necessary to perform their duties, and only if not otherwise prohibited by state or federal law or rule. (4-11-15)

b. Access to all other confidential juvenile offender records must be limited to the following authorized persons: (4-11-15)

i. Staff authorized by the Provider and members of the administrative staff of the Provider's parent agency; (3-20-20)

ii. A parent or guardian or the juvenile offender, to the extent that disclosure is not privileged and is clinically appropriate; (4-11-15)

iii. Appropriate staff of the Department; (4-11-15)

iv. Counsel for the juvenile offender with signed consent form; (4-11-15)

v. Judges, prosecutors, juvenile probation officers, and law enforcement officers, when essential for official business; (4-11-15)

vi. Other individuals and agencies approved by the Department; and (4-11-15)

vii. Schools, as appropriate. (4-11-15)

05. Withholding of Information. If the Department or the

Provider believes that information contained in the record would be damaging to the juvenile offender's treatment or rehabilitation, that information may be withheld from the juvenile offender, parent or guardian, or others, except under court order. (4-11-15)

06. Retention of Juvenile Records. At the time of transfer or release from Department custody, any records not previously submitted are provided to the Department within two (2) business days. (3-20-20)

07. Requests for Information. Requests for information of any kind about juvenile offenders in Department custody, following their release or transfer from a Provider's program must be directed to the Department. (3-20-20)

08. Document Reproduction. The Provider agrees that documents provided by the Department will not be distributed without written permission from the Department. (3-20-20)

131. RELEASE FORMS.

01. Release of Nonmedical Information. The juvenile offender, parent or guardian, and Department representative must sign a release of information and consent form before information about the juvenile offender is released to any non-juvenile justice entity. A copy of the consent form must be maintained in the juvenile offender's file at the program and in the case management file maintained by the Department. (4-11-15)

02. Release of Medical Information. Release of medical information requires more specific authorization. The Provider must abide by Subchapters B and C of these rules, as applicable. (3-20-20)

03. Minimum Information. The release of information and consent form must, at a minimum, include the following: (4-11-15)

a. Name of person, agency, or organization requesting information; (4-11-15)

b. Name of person, agency, or organization releasing information; (4-11-15)

c. The specific information to be disclosed; (4-11-15)

d. The date consent form is signed; (4-11-15)

e. Signature of the juvenile offender and the parent or guardian, if the juvenile offender is under the age of 18; (4-11-15)

f. The signature of the person witnessing the juvenile offender's signature; and (4-11-15)

g. Effective and expiration dates. (4-11-15)

132. JUVENILE OFFENDER PHOTOGRAPHS.

01. Limitations. No juvenile offender in the custody of the Department may be used in person or by photograph or any other visual image for the express purpose of any fund raising efforts. (4-11-15)

02. Department Authorization. Permission to release or use the photographs and any other visual image of juvenile offenders in the custody of the Department must require written authorization from the Department director, or designee. (4-11-15)

133. RESEARCH PROJECTS.

01. Written Policy. The Provider must have a written policy regarding the participation of juvenile offenders in research projects that prohibits participation in medical or pharmaceutical testing for experimental or research purposes. (3-20-20)

02. Voluntary Participation. Policies must govern voluntary participation in non-medical and non-pharmaceutical research programs. However, juvenile offenders may not participate in any research program without prior written approval from the Director or designee. (3-20-20)

134. PROHIBITED CONTACT AND PREA COMPLIANCE.

01. Sexual Abuse of Juvenile Offenders. The Provider must have written policies and procedures mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. These policies and procedures must contain, at a minimum, the following: (3-20-20)

a. The prohibition of any sexual abuse or sexual harassment

as defined in PREA Standards or as defined in Section 18-6110, Idaho Code; (3-20-20)

b. The appointment of a PREA Coordinator, as outlined in PREA Standards 28 C.F.R. 115.311(c), to be determined by the program director; (4-11-15)

c. Procedures that enable juvenile offenders to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine well-being checks, as outlined in PREA Standards 28 C.F.R. 115.315(d); (4-11-15)

d. The requirement of staff of the opposite gender to announce their presence when entering a housing unit or any area where juvenile offenders are likely to be showering, performing bodily functions, or changing clothing, as outlined in PREA Standards 28 C.F.R. 115.315(d); (4-11-15)

e. The provision of multiple avenues for a juvenile offender or a third party to report sexual abuse and sexual harassment, at least one of which must be external to the agency, as outlined in PREA Standards 28 C.F.R. 115.351; (4-11-15)

f. The process for gathering information to make classification and housing decisions to reduce the risk of sexual victimization, as outlined in PREA Standards 28 C.F.R. 115.342; (4-11-15)

g. The handling of all information regarding sexual abuse or sexual harassment with confidentiality, as outlined in PREA Standards 28 C.F.R. 115.361(c); (4-11-15)

h. The process to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior, as outlined in PREA Standards 28 C.F.R. 115.322; (4-11-15)

i. Policies to protect all residents and staff who report sexual abuse or sexual harassment from acts of retaliation as outlined in PREA Standards 28 C.F.R. 115.367; (4-11-15)

j. The provision of timely and unimpeded access to crisis intervention services, medical, and mental health care to victims, as outlined in PREA Standards 28 C.F.R. 115.382(a); (4-11-15)

k. The provision for and documentation of training to staff, as outlined in PREA Standards 28 C.F.R. 115.331; (4-11-15)

l. The provision for and documentation of age-appropriate education to juvenile offenders, as outlined in PREA Standards 28 C.F.R. 115.333; (4-11-15)

m. Within 30 days of the conclusion of every sexual abuse investigation the Provider must conduct a sexual abuse incident review, as outlined in PREA Standards 28 C.F.R. 115.386; (3-20-20)

n. A process that requires reporting and documentation of any instance of sexual abuse among juvenile offenders or between juvenile offenders and staff or volunteers, according to Subsection 156.01 and Subsection 156.05 of these rules. These must be reported on a form provided by the Department; (4-11-15)

o. A process for an initial internal investigation when sexual abuse is reported; (4-11-15)

p. An expected first response practice of separating the alleged perpetrator from the alleged victim until the investigation is complete; (4-11-15)

q. In addition to completing the form supplied by the Department, the Provider must document all steps taken to ensure the juvenile offender's safety; and (3-20-20)

r. The Provider must report all sexual abuse to appropriate licensing authority or law enforcement when sexual abuse is suspected. (3-20-20)

02. Resident Access to Outside Support Services. The facility must provide residents with access to outside victim advocates for emotional support services related to sexual abuse as outlined in PREA Standards 28 C.F.R. 115.353. (4-11-15)

03. Sexual Victimization Survey. Providers must participate

in all state and federal surveys, and complete and submit the survey and supply the Department with copies. (4-11-15)

135. SUICIDE PRECAUTIONS.

01. Policy Requirements. All Providers must have a written policy for responding to juvenile offenders who present a risk of suicide requiring, at a minimum, that: (3-20-20)

a. Staff are regularly trained to identify, document, and appropriately respond to behavior that may indicate a risk of suicide; (4-11-15)

b. The Provider utilizes medical or other staff trained by a mental health professional to review history, interview, and observe juvenile offenders new to the program in order to complete a suicide risk screening within two (2) hours of admission. The screening is done to identify any immediate threat of suicide or self-harm and the need for a suicide risk assessment; (3-20-20)

c. The Provider utilizes a mental health professional to complete a suicide risk assessment on a juvenile offender who has been identified by staff as presenting a risk of suicide. A suicide risk assessment is a system of structured and documented observation, interview, and review of behavioral and mental health information. It comprises a thorough review of recent behavioral and mental health information and interviews of staff and the juvenile offender concerning the behavior that seems to present the threat of self-harm or suicide. A suicide risk assessment typically involves an assessment of the juvenile offender's determination to act on intentions of self-harm, a determination of the depth of planning for making the attempt, the availability of the items or situations necessary for the juvenile to act on that plan, and the lethality of the plan, as expressed; (4-11-15)

d. The Provider utilizes a mental health professional to develop and disseminate a safety plan for each juvenile offender identified as presenting a risk for suicide. The safety plan includes a detailed supervision plan for the juvenile offender; (4-11-15)

e. Reassessment of suicide risk and whether it is reduced enough to reduce or terminate suicide precautions is made at a time determined by the mental health professional completing the assessment

and is ideally completed by that same mental health professional; and
(4-11-15)

f. The Provider prohibits the use of separation and isolation of juvenile offenders identified as presenting a suicide risk, unless constant one-on-one (1 on 1) staff supervision is provided. (4-11-15)

02. Separation or Isolation. All juvenile offenders in separation or isolation are closely monitored to reduce the risk of suicidal behaviors. (4-11-15)

03. Reporting to the Department. All incidents of suicide, attempted suicide, or threat of suicide must be reported to the Department in the manner described in Subsection 156.01 of these rules. (4-11-15)

136. -- 139. (RESERVED)

140. JUVENILE OFFENDER RIGHTS AND RESPONSIBILITIES.

01. Residential Treatment Provider Obligations. The Provider must respect, and not infringe upon, the rights of each juvenile offender in its program. The Provider must also be responsible for understanding the rights and responsibilities of juveniles in custody, and knowing which rights have been forfeited as a result of being placed in custody. (4-11-15)

02. Juvenile Offender Program Responsibilities. The Provider must inform each juvenile offender, upon admission to its program, of each juvenile offender's responsibilities during the program. Additionally, each juvenile offender must have an understanding of the following program expectations: (4-11-15)

a. Requirements needed to complete program; (4-11-15)

b. How to access medical services; (4-11-15)

c. How to file a grievance; (4-11-15)

d. How to report incidents of sexual abuse between juvenile offenders or between staff and juvenile offenders; and (4-11-15)

e. How to contact the juvenile services coordinator and juvenile probation officer. (4-11-15)

141. DISCIPLINE OF JUVENILE OFFENDERS.

01. Written Policies and Procedures. All providers offering treatment services must have comprehensive written discipline policies and procedures, which are explained to all juvenile offenders, families, and staff. These policies must include positive responses for appropriate behavior. They must include a provision for written notice to the juvenile offender being disciplined, a mechanism for a fair and impartial hearing to include at least one staff member not involved in the disciplinary action, and a process for appeal. (4-11-15)

02. Administration of Discipline. Discipline will be administered in a way to create a learning experience for the juvenile offender, and never in a way that degrades or humiliates the juvenile offender. Staff will make every effort to maintain control of juvenile offenders through positive methods. No juvenile offender will supervise nor carry out disciplinary actions over another juvenile offender. (4-11-15)

a. Prior to and upon initiating a disciplinary action, careful attention should be given to ensure the disciplinary sanctions are proportionate with the nature and circumstances of the behavior and the program rules to determine the seriousness of the misbehavior and the appropriate type of discipline. (4-11-15)

b. Disciplinary actions are not the same as the consequences that are spelled out as a part of a service implementation plan for the juvenile offender. A Provider must make every effort to resolve problems with the least amount of formal disciplinary activity possible. Efforts should be made first to instruct and counsel the juvenile offender. (4-11-15)

c. Any restriction of a juvenile offender's participation in a program resulting from a formal disciplinary action must be reported in an incident report. (4-11-15)

03. Prohibited Actions. The Provider is prohibited from using certain actions as disciplinary responses, as listed in the child care licensing rules of the Idaho Department of Health and Welfare. (4-11-15)

04. Denial of Services. Denial of the following are prohibited as disciplinary responses: (4-11-15)

- a.** Educational and vocational services; (4-11-15)
- b.** Employment; (4-11-15)
- c.** Medical or mental health services; (4-11-15)
- d.** Food; (4-11-15)
- e.** Access to family, juvenile services coordinator, juvenile probation officer, and legal counsel; and (4-11-15)
- f.** Religious services. (4-11-15)

05. Appeal of Formal Disciplinary Penalties. Each Provider must have a formal written process through which a juvenile offender can appeal a disciplinary action and receive a review of the case. The Provider shall explain to the juvenile offender how to use the appeal process. The juvenile offender must be informed that the juvenile services coordinator may be included in the disciplinary process at the juvenile's choice. (4-11-15)

142. GRIEVANCE PROCEDURES.

01. Written Procedures. The Provider must have a written grievance procedure for juvenile offenders, which includes the right to appeal disciplinary actions against them if a separate disciplinary grievance procedure is not available. It must be written in a clear and simple manner and allow juvenile offenders to make complaints without fear of retaliation. The grievance procedure must be explained to the juvenile offender by a staff member and such documented in the juvenile's file. (3-20-20)

02. Grievance Process. (3-20-20)

a. Grievance forms must be in a location accessible to juvenile offenders without having to request such a form from staff. Completed forms should be placed in a secure area and collected daily. (3-20-20)

b. The Provider must complete a review and discuss findings with the juvenile offender within three (3) business days of receipt of the grievance form. (3-20-20)

c. If the juvenile offender lives independently, the Provider must have a process for the juvenile to submit grievance forms to the program director without having to request such a form from staff. (3-20-20)

143. JUVENILE OFFENDER SAFETY.

Every juvenile offender has the fundamental right to feel safe. Residential treatment providers have the responsibility to ensure that a juvenile offender is safe while in their care. Every juvenile offender must be informed of procedures whereby a professional staff person can be contacted on a twenty-four (24) hour basis if the juvenile offender does not feel safe. The Provider's administration must make periodic contact with juvenile offenders in the program to determine if they feel safe and are comfortable when interacting with peers and staff. (4-11-15)

144. SEARCHES FOR CONTRABAND.

01. Searches of Personal Items. Routine searches of personal items being introduced into the program or residence may be conducted by staff prior to the juvenile offender taking possession of their property, or when the juvenile offender is returning to the program or residence from an individual community pass. Search of a juvenile offender's belongings or residence may be done at any time and must be minimally intrusive. (3-20-20)

02. Policies and Procedures Governing Consequences. The Provider must have written policies and procedures establishing the consequences for juvenile offenders found with contraband. (3-20-20)

03. Clothed Body Searches. (3-20-20)

a. Clothed body searches of juvenile offenders may be conducted whenever the Provider believes it is necessary to discourage the introduction of contraband into the program, or to promote the safety of staff, juvenile offenders, and visitors. A clothed body search may be used when a juvenile offender is returning from a visit, outside appointment, or activity. (3-20-20)

b. Clothed body searches must be conducted in the manner required in the rules of the Idaho Department of Health and Welfare under IDAPA 16.06.02, “Standards for Child Care Licensing.” Clothed body searches of juvenile offenders will be conducted by staff of the same gender as the juvenile offender. Clothed body searches will be conducted using a pat down search outside the juvenile’s clothing. The staff member must have had appropriate training in conducting clothed body searches. (3-20-20)

04. Unclothed Body Searches. Unclothed body searches of juvenile offenders may only be conducted by a medical health professional and with prior written authorization from the program director or designee. Unclothed body searches must be conducted with an adult in the room, in addition to the medical health professional, who is of the same gender as the juvenile offender being searched. Unclothed body searches must be based upon a reasonable belief that the juvenile is concealing contraband or signs of abuse. Immediately after conducting an unclothed body search the Provider must notify the Department’s regional superintendent and the Quality Improvement Services Bureau. The Provider must complete an incident report according to the requirements of Section 156. (3-20-20)

05. Body Cavity Searches. Body cavity searches of juvenile offenders may only be conducted in a medical facility outside of the Provider, by a medical health professional and with prior written authorization from the program director or designee. Body cavity searches of juveniles will not be performed by staff, interns, or volunteers under any circumstances. Looking into a juvenile’s mouth, ears, or nose does not constitute a body cavity search. Body cavity searches must be based upon a reasonable belief that the juvenile is concealing contraband. Immediately after conducting a body cavity search, the Provider must notify the Department’s regional superintendent and the Quality Improvement Services Bureau. The Provider must complete an incident report according to the requirements of Section 156. (3-20-20)

06. Documentation of Searches. All searches must be documented in terms of reason for the search, who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the juvenile services coordinator must be notified and the incident reported according to Section 156. If necessary, the appropriate law enforcement agency should be notified. (3-20-20)

07. Contraband Disposal. All contraband found in the

possession of juvenile offenders, visitors, or staff must be confiscated by staff and secured under lock and key in an area inaccessible to juvenile offenders. Local law enforcement must be notified in the event illegal drugs, paraphernalia, or weapons are found. It is the responsibility of the program director, in consultation with the Department, to dispose of all contraband not confiscated by police. (3-20-20)

145. RELIGIOUS SERVICES.

The Provider must ensure that attendance at religious services is voluntary. No juvenile offender is required to attend religious services, and no juvenile offender may be penalized for not attending nor given privileges for certain attendance. The Provider's staff schedule must not encourage or discourage participation in general or specific religious services or activities. (3-20-20)

01. Voluntary Practice. All juvenile offenders must be provided the opportunity to voluntarily practice their respective religions in a manner and to the extent that will not compromise the safety, security, emotional, or physical well-being of the juvenile offenders in the program. (3-20-20)

02. Attendance. Juvenile offenders may be permitted to attend religious services of their choice in the community, as long as community safety is ensured. (3-20-20)

03. Transportation. Programs must, when reasonably possible, arrange transportation for those juvenile offenders who desire to take part in religious activities of their choice in the community. (3-20-20)

04. Risk to Community. If the juvenile offender cannot attend religious services in the community because staff has determined that the juvenile is an escape risk, or otherwise presents a risk to the safety of the community, the Provider must make reasonable efforts to ensure that the juvenile offender has the opportunity to participate in religious services of the juvenile's choice at the program. (3-20-20)

05. Visits. Juvenile offenders must be permitted to receive visits from representatives of their respective faiths. (3-20-20)

146. DRUG SCREENS OF JUVENILE OFFENDERS.

Drug screens may be done randomly or on an as needed basis, at the Provider's expense, with the approval of the Provider's program director.

A record must be kept of all drug screens and results with positive drug screenings immediately reported to the juvenile services coordinator.

(3-20-20)

147. – 149. (RESERVED)

150. EMPLOYMENT OF JUVENILE OFFENDERS.

01. Employment. If juvenile employment away from the program site is a part of the program, written policy and procedure must provide that program resources and staff time are devoted to helping employable juvenile offenders locate employment. Programs must ensure that each employment opportunity meets all legal and regulatory requirements for juvenile employment. The juvenile offender's employer must be consulted at least twice monthly by the Provider concerning the juvenile offender's work abilities and performance on the job site. Additionally, the Provider must perform checks on the job-site at least monthly to ensure the juvenile offender is working under acceptable conditions. Under no circumstances should staff or the families of staff benefit financially, or otherwise, from work done by juvenile offenders in the program.

(3-20-20)

02. Employment Opportunities. Every reasonable effort must be made to select employment opportunities that are consistent with the individual interests of the juvenile offender to be employed. Preference will be given to jobs that are related to prior training, work experience, or institutional training, and may be suitable for continuing post-release employment.

(3-20-20)

151. COMMUNITY SERVICES AND RESTITUTION.

01. Community Service. Juvenile offenders may have court-ordered community service hours. The Provider must obtain prior approval from the juvenile probation officer to complete any court-ordered community service hours while at the Provider. The Provider will document approved community service hours and report the accumulation of completed hours in the juvenile offender's progress report.

(3-20-20)

02. Court Ordered Restitution. The Provider must work with the juvenile probation officer and juvenile services coordinator to determine the amount of restitution owed. The Provider must create a plan for the juvenile offender to submit a portion of a juvenile offender's

personal funds or earned income for the payment. When juvenile personal funds are available, the Provider will submit payment to the county until the restitution amount is satisfied. Documentation of the payment is provided to the juvenile services coordinator. (3-20-20)

03. Restitution for Program Damages. Monetary restitution may only be sought through a court order when a juvenile offender has damaged or destroyed property, or has caused or attempted to cause injury to other juvenile offenders or staff. The Provider must not access the juvenile offender's personal funds for program damages. Restitution for damages must begin with a plan for repair by the juvenile offender. (3-20-20)

152. PROGRAMMING.

01. Basic Program Requirements. Providers must provide opportunities and services for juvenile offenders to improve their educational and vocational competence, to effectively address underlying behavior problems, and to prepare them for responsible lives in the community. Programs provided must be gender equitable, gender specific, and culturally competent. The ultimate treatment goal for juvenile offenders involved in these programs is the successful return of juvenile offenders to the community without committing further crimes. (3-20-20)

02. General Requirements. (3-20-20)

a. Providers must provide a range of program services specifically designed to address the characteristics of the target population identified in the comprehensive program description and in the admission policy. (3-20-20)

b. Programs that serve a special needs population, such as developmentally delayed or seriously emotionally disturbed juvenile offenders, and those programs serving sexually abusive juvenile offenders, must be able to demonstrate that the program services offered are supported by research. (3-20-20)

c. Programs providing reintegration services for individual juvenile offenders must target behaviors, needs, or circumstances stated in their final progress report from the sending facility or program. These services must be clearly identified and described within the program description. (3-20-20)

d. Programs serving female juvenile offenders must be able to demonstrate that the services provided include elements of a program specifically designed to address the unique situations and circumstances facing female juvenile offenders. These elements must be clearly identified and described within the program description. (3-20-20)

e. Programs designed to serve juvenile offenders with gang involvement must be able to demonstrate that the services provided include elements of a program specifically designed to address gang involvement. These elements must be clearly identified and described within the program description. (3-20-20)

f. Program services for individual juvenile offenders must be designed based upon the juvenile's service plan, and must target those behaviors or circumstances which have contributed to the juvenile's delinquency and which can reasonably be changed (criminogenic needs). These services must be clearly identified and described within the program description. (3-20-20)

g. Juvenile offenders must always be aware of the status of their progress within the program and what remains to be done to complete the program. Providers must assure that the basic norms and expectations of the program, including any points, levels, or phases that are a fundamental part of a program, are clearly presented to the juvenile offender and that they are understood. (3-20-20)

h. Programs that contract with the Department to serve juvenile offenders and their families must: (3-20-20)

i. Provide humane, disciplined care and supervision; (3-20-20)

ii. Provide opportunities for juvenile offenders' development of competency and life skills; (3-20-20)

iii. Hold juvenile offenders accountable for their delinquent behavior through means such as victim- offender mediation, restorative conferencing, restitution, and community service; (3-20-20)

iv. Seek to involve juvenile offenders' families in treatment, unless otherwise indicated for the safety and benefit of the juvenile offenders or other family members; (3-20-20)

v. Address the principles of accountability to victims and to the community, competency development, and community protection in case planning and reporting; (3-20-20)

vi. To the fullest extent possible, provide balance in addressing the interests of the victim, community, and the juvenile offender. (3-20-20)

vii. Participate fully with the Department and the community treatment team in developing and implementing service plans for juvenile offenders they serve; and (3-20-20)

viii. Provide juvenile offenders with educational services based upon their documented needs and abilities. (3-20-20)

i. Reintegration services include all aspects of case planning and service delivery designed to facilitate successful return of the juvenile offender to the community. (3-20-20)

153. JUVENILE OFFENDER AND PARENT OR GUARDIAN HANDBOOK.

The Provider must provide each juvenile offender and their parent or guardian with program handbooks that are written in an age-appropriate manner. (3-20-20)

01. Required Content. Handbooks must address, at a minimum, the following: (4-11-15)

a. Requirements needed to complete program; (4-11-15)

b. Juvenile offender rights and responsibilities; (4-11-15)

c. The means available to safely report sexual abuse and harassment; (4-11-15)

d. Grievance procedures; (4-11-15)

e. Religious services; (4-11-15)

f. Search procedures, including a list of what constitutes as contraband and the consequences for its possession; (3-20-20)

- g.** The Provider's disciplinary process; (3-20-20)
- h.** Visitation, mail, and phone correspondence; (4-11-15)
- i.** The Provider's obligation to make reasonable accommodations for any disabilities, language barriers, or other special needs; (4-11-15)
- j.** The daily schedule for juvenile offenders; and (4-11-15)
- k.** A description of services or items for which a juvenile offender may be charged by the Provider. (4-11-15)

02. Receipt of Handbook. The juvenile offender and their parent or guardian acknowledge in writing their receipt of the juvenile offender and parent or guardian handbook. (4-11-15)

154. PROGRAM OPERATIONAL REQUIREMENTS.

01. General Requirements. (4-11-15)

a. Providers shall provide vigorous programming that minimizes periods of idle time, addresses behavioral problems of juvenile offenders, and teaches and promotes healthy life choices. Programs should specifically address those factors in juvenile offender's lives that contribute to delinquency and that can be realistically changed. (3-20-20)

b. Providers shall encourage appropriate telephone contact, mail contact, and visitation between juvenile offenders and their families. (4-11-15)

c. Providers must structure and document services offered in the program so that continuity in case planning is obvious. Medical health, mental health, substance abuse, social skills, educational, vocational, independent living, and other special needs identified in the assessment must be clearly addressed in the service implementation plan. Services provided to address those needs must be documented regularly. (3-20-20)

d. Service needs remaining at the time of release from Department custody or transfer must be accounted for in the reintegration plan for each juvenile offender. (4-11-15)

e. The Provider will not admit more juveniles into care than the number specified on the Provider's license. Providers wishing to increase capacity are responsible for contacting the applicable licensing agency. A copy of the written confirmation to the Provider from the applicable licensing agency for verbal approval to exceed the licensed capacity must be forwarded to the Department's Quality Improvement Services Bureau. (3-20-20)

f. The Provider must have and strictly follow a comprehensive policy covering the supervision of juvenile offenders, including a plan for monitoring all movement of those juvenile offenders both in the facility and, as appropriate, within the community. Staff at the facility must be aware of the location of every juvenile offender assigned to that program at all times. (3-20-20)

g. Programs may not, under any circumstances, involve juvenile offenders in plethysmographic assessments. (4-11-15)

02. Use of Polygraphs. (4-11-15)

a. The use of polygraphs for juvenile offenders adjudicated for or documented to have demonstrated sexually abusive behavior, must only be undertaken by court order or under the following circumstances: (4-11-15)

i. With the specific written authorization of the Department's regional clinical supervisor; (4-11-15)

ii. Only with the full, informed consent of the juvenile offender; and (4-11-15)

iii. If the juvenile offender is a minor, only with the full, informed consent of the parent or guardian. (4-11-15)

b. Polygraphers used in this process must be able to provide documentation of certification by the Sexual Offender Management Board in the use of polygraphy with juvenile offenders. (4-11-15)

c. Providers must not make treatment decisions solely on the results of a polygraph. (3-20-20)

d. Polygraph reports must be sent to the juvenile services coordinator by the Provider. (3-20-20)

155. PLANNING FOR RELEASE OR TRANSFER.

01. Aftercare Planning. Programs must promote continuity in programming and services for juvenile offenders after they leave the program by assuring that essential information is forwarded to those agencies that may be providing services to the juvenile offenders, and working closely with Department staff throughout placement to plan for reintegration. (3-20-20)

02. Approval. Reintegration, by release from Department custody or transfer, must not take place without the involvement of the Department's assigned juvenile services coordinator, and the written approval of the regional clinical supervisor and regional superintendent. (3-20-20)

03. Department Concurrence. Preparation for reintegration of a juvenile offender begins with the initial development of a service plan and is an ongoing process throughout the juvenile offender's program. Criteria for the juvenile offender's release from Department custody or transfer must be explained to the juvenile as soon as possible after admission to a program. (3-20-20)

04. Reintegration Staffing. The juvenile services coordinator shall convene a reintegration staffing, which will include the juvenile offender's probation officer, the Provider, the juvenile offender's parent or guardian, an education representative, and the juvenile offender. At a minimum, a review of the plans to address any ongoing medical or mental health, substance abuse, social skills, education, vocation, independent living, and other special needs will be conducted. The juvenile offender's relapse prevention plan will be reviewed by the juvenile probation officer, the juvenile's parent or guardian, the education representative, and juvenile services coordinator. Based upon the results of that staffing and pending juvenile services coordinator approval of the relapse prevention plan, the Department will make the final decision regarding transfer or release from Department custody. (3-20-20)

05. Check-Out Procedures. Prior to the release from Department custody or transfer, the Provider must have completed a Provider Juvenile Check-Out Form (DJC-180) supplied by the Department. The form must be dated, signed by the juvenile offender, and forwarded to the juvenile services coordinator and any designees on the actual date that the juvenile offender leaves the program. (3-20-20)

a. The Provider must provide the juvenile's Medicaid card

and a thirty (30) day supply of all medications or a thirty (30) day prescription signed by the physician to the individual or agency authorized to transport the juvenile offender. (3-20-20)

06. Termination Prior to Completion. (3-20-20)

a. When a Provider believes a juvenile offender is at risk for transfer prior to program completion, the juvenile services coordinator must be notified as far in advance as possible so that a staffing may be held. The purpose of this staffing is to consider the circumstances which may require the transfer, and to make every effort to address the concerns with the Provider to avoid the necessity of making another placement. The Provider must document these efforts at problem solving. The Department will make a decision about transfer based upon the results of this staffing and any subsequent work agreed upon with the Provider. The Provider can request transfer of a juvenile offender in the following circumstances:

(3-20-20)

i. A pattern of documented behavior clearly indicating a lack of progress; or (3-20-20)

ii. Commission of one (1) or more serious or violent incidents that jeopardize the safety and security of individuals or the program. (3-20-20)

b. In matters involving life, health, and safety of any juvenile in Department custody, the Department shall remove the juvenile offender immediately. (3-20-20)

c. A final progress report must include, at a minimum, a report on progress or lack of progress on all service implementation plan areas and recommendations for follow-up. The report must be forwarded to the juvenile services coordinator within twenty-four (24) hours of transfer prior to program completion. (3-20-20)

156. INCIDENT REPORTING REQUIREMENTS.

01. Incidents Requiring Immediate Notice to Parent or Guardian and Department. All notifications under this section must be made to the regional facility in the region where the residential treatment provider is located. Out-of-state providers must notify the juvenile correctional center in Nampa. Providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. If any of the following events occur, the Provider must immediately notify the juvenile offender's parent or guardian, juvenile services coordinator, juvenile

probation officer, and the Department's regional facility by telephone (not by facsimile or electronically). The Department's regional R.N. must also be notified immediately in the event of all medical and mental health incidents. (3-20-20)

a. Medical and mental health emergencies including, but not limited to: (4-11-15)

i. Every instance of emergency room access; (4-11-15)

ii. Refusal of medications, treatment recommended by a physician, or food for three (3) consecutive days; (3-20-20)

b. Major incidents such as: (4-11-15)

i. Death of a juvenile offender; (4-11-15)

ii. Suicide, attempted suicide, or threat of suicide; (4-11-15)

iii. Attempted escape; (4-11-15)

iv. Sexual abuse among juvenile offenders or by staff including, but not limited to, incidents reportable under PREA; (4-11-15)

v. Criminal activity resulting in arrest, detention, or filing a report with local law enforcement; (4-11-15)

vi. Any other relevant report made to the Idaho Department of Health and Welfare or applicable state agency; (4-11-15)

c. Any incident of restraint that involves the use of medications, chemicals, or mechanical devices of any kind; (4-11-15)

d. Incidents of alleged or suspected abuse or neglect of juvenile offenders; (4-11-15)

e. Incidents involving major disasters affecting location or well-being of the juveniles; and (4-11-15)

f. Any restriction of a juvenile offender's family visitation due to the juvenile's behavior. (4-11-15)

g. A written incident report must also be transmitted within twenty-four (24) hours to the juvenile services coordinator and the juvenile probation officer. Written notification is sent within twenty-four (24) hours to the juvenile offender's parent or guardian unless notification would endanger the juvenile. Transmission of all written incident reports may be electronic or by facsimile. (3-20-20)

02. Escapes Also Require Immediate Notice to Parent or Guardian and Department. In all instances of escape, the Provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional facility, juvenile offender's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile or electronically). A written incident report must also be transmitted within twenty-four (24) hours to the juvenile services coordinator and the juvenile probation officer. Written notification is sent within twenty-four (24) hours to the juvenile offender's parent or guardian unless notification would endanger the juvenile offender. Transmission of all written incident reports may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. (3-20-20)

a. Clothing and other personal belongings must be secured immediately and maintained in a secure place until returned to the Department. (4-11-15)

b. The juvenile offender shall continue to be assigned to the program, although not physically present, for up to forty-eight (48) hours. The program will be reimbursed for the days the juvenile offender was on escape status up to forty-eight (48) hours. Should the program, in consultation with the juvenile offender's treatment team, choose to transfer the juvenile offender after returning, the relevant procedures outlined in Subchapters B and C of these rules apply. (3-20-20)

03. Incidents Requiring Immediate Notice to Department and Three Day Notice to Parent or Guardian. The following incidents require immediate notice to the juvenile services coordinator in the manner described in Subsection 156.01, and require notice within three (3) business days to parent or guardian of the juveniles involved. (4-11-15)

a. Any use of separation or isolation for more than two (2) hours; (4-11-15)

b. Incidents involving the disclosure of criminal behavior by juvenile offenders; (4-11-15)

c. Instances of physical assault or fighting; (4-11-15)

d. Major misconduct by one (1) or more staff against a juvenile offender; (4-11-15)

e. Discovery of contraband that represents an immediate threat to safety and security such as weapons or drugs; (4-11-15)

f. Any instance of an unclothed body search or a body cavity search of a juvenile offender; (4-11-15)

g. Other than incidents described in Paragraph 16.01.e., significant property damage resulting from misconduct, negligence, or from incidents such as explosions, fires, floods, or other natural disasters; and (4-11-15)

h. Any pattern of restraint of a juvenile, which is defined as three (3) or more restraints within a twenty-four (24) hour period. (4-11-15)

04. Incidents Requiring Notice Within Three Days to the Department. (4-11-15)

a. Providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. A copy of the completed incident report must be submitted to the juvenile services coordinator no later than three (3) business days after the incident. (3-20-20)

b. A detailed incident report is also required for each incident of juvenile offender misconduct that is not reportable under Subsection 156.03 and results in any type of: (4-11-15)

i. Instances of lost keys, equipment, or tools; (4-11-15)

ii. Discovery of contraband not posing an immediate risk; or (4-11-15)

iii. A pattern of refusal of program participation that rises to the point of raising questions about the appropriateness of the placement. (4-11-15)

c. A detailed incident report is also required for each incident of staff misconduct relating to juvenile care that is not reportable under Subsection 156.03 and results in: (3-20-20)

i. Any physical restraint that does not involve the use of medications, chemicals, or mechanical devices of any kind; or (4-11-15)

ii. Separation, isolation, or room confinement for more than fifteen (15) minutes but less than two (2) hours. (4-11-15)

05. Incident Report Content. Providers may elect to use the Department's standard incident report form or may use another form that includes the following information: (3-20-20)

a. Juvenile offender's assigned unit or location; (4-11-15)

b. Date, location, and time of the incident; (4-11-15)

c. Witnesses and other staff and juvenile offenders involved; (4-11-15)

d. Persons notified with date and time of notice; (4-11-15)

e. Brief narrative description of the incident; (4-11-15)

f. Type of incident by category, such as assault against staff or juvenile offender, behavioral and psychiatric emergency, contraband, escape, injury or illness, self-harm or suicidal behavior, or sexual abuse; (4-11-15)

g. Action taken by category, such as restraint, separation, isolation, or room confinement with times in and out, visitation restrictions due to juvenile offender behavior, suicide precautions initiated, or escape precautions initiated; (4-11-15)

h. Signature of staff and reviewing supervisor, which may be affixed electronically; (4-11-15)

i. Documentation of injury and medical attention provided;
and (4-11-15)

j. If the incident involves sexual abuse, the incident report
must include a description of action taken to: (4-11-15)

i. Keep the alleged victim(s) safe from intimidation of
further abuse and maintain confidentiality; (4-11-15)

ii. Address any immediate trauma, either physical or
emotional; (4-11-15)

iii. Address long-term medical or mental health needs related
to the alleged abuse; (4-11-15)

iv. Notify responsible licensing, regulatory, and law
enforcement agencies and preserve evidence; (4-11-15)

v. Conduct an initial internal investigation of the incident
and as necessary request that an external investigation be completed; and
(4-11-15)

vi. Prevent repetition of the abusive situation. (4-11-15)

157. OUT-OF-STATE- TRAVEL.

When a Provider is planning an out-of-state trip for any of its juvenile
offenders, the facility administrator must obtain prior written authorization
from the regional clinical supervisor or designee. The necessary sequence
of action and approval is as follows: (3-20-20)

01. Notification. The Provider must notify the juvenile services
coordinator in writing fourteen (14) business days in advance of the
scheduled trip with the following: (3-20-20)

a. Dates of the scheduled trip; (3-20-20)

b. Location of the trip; (3-20-20)

c. Purpose of the trip; (3-20-20)

d. Transportation arrangements; (3-20-20)

e. Where the juvenile offender will be staying if overnight accommodations are required (address and phone number); and (3-20-20)

f. Who is going, such as juvenile offender, and name and position of staff. (3-20-20)

02. Prior Approval. The program director must obtain all necessary approvals prior to authorizing travel. (3-20-20)

03. Interstate Compact for Juveniles. Any out-of-state travel for more than twenty-four (24) hours requires a travel permit and compliance with the Interstate Compact for Juveniles. (3-20-20)

158. ADDITIONAL PROGRAM POLICY REQUIREMENTS.

01. Written Policies. In addition to other policy requirements listed in these rules, Providers must have, at a minimum, the following written policies concerning program operations available at the program site: (3-20-20)

a. Program elements and implementation; (4-11-15)

b. Admission policy describing the target population and criteria for admission, and identifying sources of referrals to the program; (4-11-15)

c. Criteria for assigning juvenile offenders to different units within the program, if applicable; (4-11-15)

d. The provision of (or referral for) emergency and routine medical and mental health services for the population; (4-11-15)

e. Behavior management within the program, including use of points and levels, restraints, separation, detention, and other types of special management; (4-11-15)

f. Supervision of juvenile offenders policy that includes managing juvenile offender movement within the program, including the timely transfer of behavioral information about juvenile offenders from staff during shift changes; (4-11-15)

g. Juvenile offender's access to the community policy that includes use of community schools or job sites, and individual or group activities away from the program site. This also includes individual community passes; (4-11-15)

h. Administrative coverage in emergency situations arising after regular work hours; (3-20-20)

i. Documentation and reporting of critical incidents to program administrators, the Department and others on the community treatment team; (4-11-15)

j. Treatment planning and progress reporting to the Department, juvenile offender, family, and others on the community treatment team; (4-11-15)

k. Reintegration policy that describes criteria for successful completion of program, termination from program prior to completion, and the involvement of the Department and community treatment team; and (4-11-15)

l. Emergency procedures in the event of a natural disaster. (4-11-15)

02. Documented Staff Training. Documented staff training on these policies must also be available for review by the Department. (4-11-15)

159. FIRST AID KITS.

Each Provider must maintain first aid kits. Basic first aid kits that do not include medications or sharp tools may be kept unlocked. Any complete first aid kit with medications, wound rinses, scissors, tweezers, or other such objects must be kept locked and placed in areas of the program or facility readily accessible to staff. (3-20-20)

160. -- 199. (RESERVED)

SUBCHAPTER B – RULES FOR STAFF SECURE PROVIDERS

200. INITIATION OF SERVICES.

Juveniles are committed to the Department under the provisions of the

Juvenile Corrections Act (Sections 20-501 through 20-547, Idaho Code).
(3-20-20)

201. WAIVER AND VARIANCE.

Minimum program standards established herein apply to all services provided by the Provider. Any waiver and variance from the standards stated in these rules must receive prior written approval from the Department and be attached as a formal amendment to the contract.
(3-20-20)

202. APPLICABILITY.

This subchapter applies to Providers of treatment services identified in individual service implementation plans. Staff secure Provider must also abide by Subchapter A of these rules.
(3-20-20)

203. AUTHORITY TO INSPECT.

The Department has the authority to conduct reviews of programs, program operations, juvenile offender placements, and facilities to ensure the Provider's compliance with these rules. The Provider shall cooperate with the Department's review, and must provide access to the facility and all juvenile records for juveniles in Department custody, as deemed necessary by the Department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available, upon request.
(3-20-20)

204. COMPLIANCE WITH RULES REQUIREMENTS.

The Provider must comply with all relevant child care licensing rules of the Idaho Department of Health and Welfare, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," as well as the rules of the Idaho Department of Juvenile Corrections. Providers located outside of the state of Idaho must comply with their state's relevant child care licensing rules as well as the rules of the Idaho Department of Juvenile Corrections. If a conflict exists between Department rules, the more restrictive rule applies. Subcontractors and consultants of the Provider are also subject to these rules.
(3-20-20)

205. MINIMUM MANDATORY STAFF TRAINING REQUIREMENTS.

Good professional practice in the area of juvenile offender treatment requires staff to be competently trained. The Provider will ensure all training requirements are met according to Subchapter A of these rules, regardless of the number of training hours required.
(3-20-20)

01. Staff Working More Than 24 Hours a Week. Staff who works more than twenty-four (24) hours per week are required to complete: (3-20-20)

a. Eighty (80) hours of training during first year of employment. Up to twenty-five percent (25%) of the eighty (80) hours may be fulfilled by working with an experienced staff mentor, who must verify and document basic competencies for new staff; and (3-20-20)

b. Forty (40) hours of training per year following the first year of employment. (3-20-20)

02. Staff Working 24 Hours or Less a Week. Staff who works fewer than or equal to twenty-four (24) hours per week are required to complete: (3-20-20)

a. Forty (40) hours of training during the first year of employment, and (3-20-20)

b. Twenty (20) hours of training per year following the first year of employment. (3-20-20)

206. CLOTHING AND PERSONAL ITEMS.

01. Clothing Management. Juvenile offenders must have sufficient and appropriate clothing to participate in activities included in their service implementation plan. Juvenile offenders may arrive at the facility with their own clothing and personal items, which shall be inventoried. If the juvenile offender does not have sufficient or appropriate clothing, the Provider must provide or purchase adequate and appropriate clothing for the juvenile offender. The Provider will ensure the proper care and cleaning of clothing in the juvenile offender's possession. Providers shall not request nor require that the juvenile offender, parent, or guardian pay for or purchase clothing. (3-20-20)

02. Release from Facility. All clothing and incidentals become the property of the juvenile offender upon release from the facility. (3-20-20)

03. Replacement Clothing. Clothing provided or purchased as replacement will be at the expense of the Provider. Unique items of

clothing not required for program participation may be purchased at the expense of the juvenile offender. (3-20-20)

207. FOOD SERVICE.

Juvenile offenders must be served a varied and nutritional diet with menus approved or developed by a qualified nutritionist or dietitian and which meet the recommended dietary allowances of the National Research Council or its equivalent. Juvenile offenders must be provided three (3) meals daily in accordance with the child care licensing rules of the Idaho Department of Health and Welfare, or the applicable state's licensing authority. (3-20-20)

208. PERSONAL FUNDS.

01. Funds Handled by a Provider. The Provider will follow generally accepted accounting practices in managing personal funds of juvenile offenders. (3-20-20)

a. The Provider may deposit personal funds collected for the juvenile offender in a public banking institution in an account specifically designated "Juvenile Personal Funds." The Provider must maintain a reconciled ledger showing each juvenile offender's deposits and withdrawals within the "Juvenile Personal Funds" account. If the funds are collected in an interest bearing account, the interest accrued must be credited to the juvenile offender for whom the funds are collected. (3-20-20)

b. If the amount of personal funds maintained for the juvenile offender does not exceed fifty (50) dollars, the Provider may secure the funds locally if the following conditions are met: (3-20-20)

i. The juvenile offender's personal funds are kept in a fire-resistant, combination or digital lock-style safe that is permanently affixed to the floor or wall, or weighs at least 200 (two-hundred) pounds. (3-20-20)

ii. The Provider has a process to clearly separate each juvenile offender's personal funds from one another. (3-20-20)

iii. Access to juvenile offender personal funds is limited to the Program Director or designee. (3-20-20)

c. All withdrawals by a juvenile offender, or expenditures made on behalf of a juvenile offender by the Provider, must be documented, signed, and dated by the juvenile offender and reconciled to the juvenile offender's ledger monthly. (3-20-20)

d. The Provider must develop written procedures governing any limits to the amount of funds a juvenile offender may withdraw from their personal funds. (3-20-20)

e. The Provider shall not require juvenile offenders, parents, or guardians to pay for services and supplies that, by contract, are to be provided by the Provider. (3-20-20)

02. Reporting Requirements. A personal funds report must be submitted every other month to the juvenile services coordinator. The report must show a list of all juvenile offender account balances. The personal fund account is subject to review and audit by the Department or its representatives at any time. Any discrepancies in juvenile offender accounts must be resolved by the Provider within five (5) business days of completion of review. (3-20-20)

03. Juvenile Offenders with Earned Income. The Provider is responsible for maintaining and accounting for any money earned by a juvenile offender. There must be a plan for the priority use of the juvenile offender's earned income to pay court ordered restitution and a specific allocation for daily incidental expenses. The Provider must establish a written plan for the juvenile offender to save the funds necessary to be used upon program completion, for purposes such as paying deposits on utilities and housing or the purchasing of resources necessary for employment. (3-20-20)

04. Transfer of Personal Funds. If a juvenile offender is transferred to another program, the balance of the juvenile offender's funds must be given or mailed to the Department's fiscal services within ten (10) business days and documented on the Provider Juvenile Check-Out Form (DJC-180) supplied by the Department, and on the final progress report. (3-20-20)

209. JUVENILE OFFENDER MAIL.

01. Restrictions. Juvenile offenders shall be allowed to send and receive letters from approved persons, which may include persons in

other programs or institutions, unless specifically prohibited by the Department or by court order. All other restrictions of mail must be discussed with the community treatment team and approved in writing by the juvenile services coordinator. There must be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. Juvenile offenders will be provided with sufficient stationery, envelopes, and postage for all legal and official correspondence, and for at least two (2) personal letters each week.

(3-20-20)

02. Inspection of Outgoing Letters.

(3-20-20)

a. Outgoing letters are to be posted unsealed and inspected for contraband.

(3-20-20)

b. Exception: Outgoing “privileged” mail may be posted, sealed, and may not be opened, except with a search warrant, as long as it can be confirmed to be to an identifiable source. For purposes of this rule, “an identifiable source” means that the official or legal capacity of the addressee is listed on the envelope and that the name, official or legal capacity, and address of the addressee have been verified.

(3-20-20)

c. Upon the determination that the mail is not identifiable as privileged mail, said mail will be opened and inspected for contraband.

(3-20-20)

03. Inspection of Incoming Letters. All incoming letters must be opened by the juvenile offender to whom it is addressed and may be inspected for contraband by staff and only in the juvenile offender's presence.

(3-20-20)

04. Reading of Letters. Routine reading of letters by staff is prohibited. The Department or court may determine that reading of a juvenile offender's mail is in the best interest of the juvenile offender, and is necessary to maintain security, order, or program integrity. However, such reading of mail must be documented and, unless court ordered, be specifically justified and approved by the juvenile services coordinator.

(3-20-20)

05. Privileged Mail. Under no circumstances shall a juvenile offender's privileged mail be read.

(3-20-20)

06. Packages. All packages must be inspected for contraband. (3-20-20)

07. Publications. Books, magazines, newspapers, and printed matter, which may be legally sent to juvenile offenders through the postal system, may be approved, unless deemed to constitute a threat to the security, integrity, or order of the programs. Juvenile offenders shall not be allowed to enter into subscription agreements while in Department custody. (3-20-20)

08. Distribution of Mail. The collection and distribution of mail must never be delegated to a juvenile offender. Staff must deliver mail within twenty-four (24) hours, excluding weekends and holidays, to the juvenile offender to whom it is addressed. (3-20-20)

210. VISITATION.

01. Visitor Approval. The Provider must develop a written policy governing visitation, which protects the safety of visitors, staff, and juvenile offenders. This policy may restrict visitors below an established age to the program or facility. The Provider must provide a copy of the visitation policy to each juvenile offender, his parent or guardian, and the juvenile services coordinator. If there is reason to believe a visitor is under the influence of alcohol or drugs or possesses illegal contraband, admission into the residence shall be denied. In all cases, the Provider will work with the juvenile services coordinator and juvenile probation officer to identify and approve potential visitors. (3-20-20)

02. Visitor Searches. (3-20-20)

a. Prior to visitors being allowed in the program, they must be given rules established by the Provider that govern their visit and advised that they may be subject to a search by trained staff. They must sign a statement of receipt of these rules and the statement placed in the Provider's file. (3-20-20)

b. Visitors may be required to submit personal items for inspection. If there is reason to believe that additional searches are necessary, admission to the facility shall be denied. Visitors, who bring in items that are unauthorized, but not illegal, will have these items taken and locked in an area inaccessible to the juvenile offenders during the visit.

These items will be returned to the visitors upon their exit from the facility.
(3-20-20)

c. All visitor searches must be documented. When contraband is found, a written report must be completed and submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency will be notified.
(3-20-20)

211. SMOKING AND SALE OF CIGARETTES.

Juvenile offenders, regardless of age, are strictly prohibited from purchasing or using tobacco and nicotine products. Staff secure Providers must establish written policies and procedures banning the use of cigarettes and other tobacco and nicotine products by juvenile offenders at the facility.
(3-20-20)

212. ROOM RESTRICTIONS.

01. Policy and Procedure. The Provider must have written policies and procedures regulating the use of the juvenile offender's room for room restriction. The Provider's room restriction policy must, at a minimum, address the following:
(3-20-20)

a. Procedures for recording each incident involving the use of restriction;
(3-20-20)

b. The reason for the room restriction must be explained to the juvenile offender and allow the juvenile offender to have an opportunity to explain their behavior;
(3-20-20)

c. Other less restrictive measures must have been applied prior to the room restriction;
(3-20-20)

d. A juvenile offender on room restriction must have access to the bathroom; and
(3-20-20)

e. Room restriction must not exceed a total of eight (8) hours within a twenty-four (24) hour period.
(3-20-20)

02. Monitoring During Room Restriction. Staff must check on a juvenile offender in room restriction a minimum of once every fifteen (15) minutes. Providers must ensure that a juvenile offender with a history of depression or suicidal ideation and those who have exhibited these

behaviors while in care, are checked at least every five (5) minutes in order to ensure safety. Even more frequent or constant observation must be maintained if any level of suicide risk is determined to be present at any time during room restriction. All items in the area that might be used to attempt self-harm should be restricted or removed. (3-20-20)

213. USE OF FORCE OR PHYSICAL RESTRAINTS.

Providers licensed by the Idaho Department of Health and Welfare or the applicable state licensing authority, must ensure that all terms of the licensing rules are strictly followed and additionally ensure that: (3-20-20)

01. Minimal Use of Force. Only the minimum level of force necessary to control a juvenile offender's destructive behavior shall be used. (3-20-20)

02. Physical Force. Physical force, at any level, may only be used to prevent injury to the juvenile offender or to others and to prevent serious damage to property or escape. Physical force must never be used as punishment. (3-20-20)

03. Reporting Requirement. All instances of use of force must be documented in an incident report and submitted according to the terms of Section 156. Incidents of inappropriate use of force must be reported to the state's applicable licensing authority or law enforcement, as required by law. (3-20-20)

214. – 219. (RESERVED)

220. GUIDELINES FOR SPECIFIC SERVICES.

01. Counseling Services. (3-20-20)

a. All counseling services provided to juvenile offenders, whether individual, group, or family must be performed by a clinician, counselor, or therapist, as defined in these rules. (3-20-20)

b. Counseling should be planned and goal directed. (3-20-20)

c. Notes must be written for each service provided and include documentation of who provided the service. The notes must be

dated and clearly labeled either individual, group, or family counseling.
(3-20-20)

d. The methods and techniques applied in counseling and the frequency and intensity of the sessions should be determined by assessment.
(3-20-20)

e. Counseling should be reality-oriented and directed toward helping juvenile offenders understand and solve specific problems; discontinue inappropriate, damaging, destructive, or dangerous behaviors; and fulfill individual needs.
(3-20-20)

f. The minimum standard for the frequency of counseling services must be specified in the comprehensive program description attached to the contract with the Department.
(3-20-20)

g. There should be a mechanism developed to monitor and record incremental progress toward the desired outcome of counseling services.
(3-20-20)

h. Programs should be able to demonstrate that counseling interventions are shared in general with other program service providers, and there is broad mutual support for the goals of counseling in all service areas of the program.
(3-20-20)

i. Programs must provide crisis intervention counseling, if warranted by the assessment and circumstances.
(3-20-20)

j. The Provider must furnish adequate space for conducting private interviews and counseling sessions at the facility.
(3-20-20)

k. Family counseling services must be available as a part of the juvenile offender's service implementation plan, to the extent that this is supported by the assessment. If the assessment indicates a need for these services, family counseling should specifically address issues that, directly or indirectly, resulted in the juvenile offender's removal from the home and the issue of eventual reintegration back into the family unit. A statement of goals to be achieved or worked toward by the juvenile offender and the family should be part of the service implementation plan.
(3-20-20)

02. Substance Abuse Services. As a minimum standard,

programs must provide substance abuse services, as determined by assessment and indicated in the service implementation plan. Substance abuse services must have direct oversight by a certified alcohol and drug counselor, or master's level clinician with three (3) years' experience in the substance abuse field. Substance abuse services must be fully described in the detailed program description and have a written curriculum containing a description of each session offered. Juvenile offenders receiving substance abuse services must have an introduction to a community intervention program. Relapse prevention plans must be a component of the substance abuse services provided and be specifically based on the individual needs of the juvenile offender. Notes documenting the service provided must be dated, clearly labeled "substance abuse services," with each entry signed by the counselor performing the service. (3-20-20)

03. Social Skills Training Including Relapse Prevention Skills. Programs must assess each juvenile offender's social skills and document specific services provided to improve functioning in this area. Additionally, every juvenile offender must have developed a written relapse prevention plan prior to successfully completing the program. (3-20-20)

04. Life Skills and Independent Living. Programs must be able to demonstrate that juvenile offenders are taught basic life skills and that age-appropriate juvenile offenders are involved in independent living skills consistent with their age and needs. This program should include, at a minimum, instruction in: (3-20-20)

- a. Hygiene and grooming skills; (3-20-20)
- b. Laundry and maintenance of clothing; (3-20-20)
- c. Appropriate social skills; (3-20-20)
- d. Housekeeping; (3-20-20)
- e. Use of recreation and leisure time; (3-20-20)
- f. Use of community resources; (3-20-20)
- g. Money management; (3-20-20)
- h. Use of public transportation, where available; (3-20-20)

- i. Budgeting and shopping; (3-20-20)
- j. Cooking; (3-20-20)
- k. Punctuality, attendance, and other employment-related matters; (3-20-20)
- l. Vocational planning and job finding skills; and (3-20-20)
- m. Basic health education. (3-20-20)

05. Recreational Services. Programs should have a written plan for providing recreational services based on individual needs, interests, and functional levels of the population served. (3-20-20)

a. The recreational program should include indoor and outdoor activities. Activities should minimize television and make use of a full array of activities that encourage both individual entertainment and small group interaction. An appropriately furnished area should be designated inside the facility for leisure activities. (3-20-20)

b. Programs should have staff educated and experienced in recreational programs to ensure good planning, organizing, supervision, use of facility, and community activities. Recreational activities considered part of the service implementation plan must be funded by the Provider. The use of community recreational resources should be maximized, as long as community safety is assured. The Provider must arrange for the transportation and provide the supervision required for any usage of community recreational resources. No juvenile offender may be required to pay to participate in recreational activities made available through the program. (3-20-20)

06. Transportation Services. In all transport situations there must be at least one (1) assigned staff of the same gender, or two (2) assigned staff of the opposite gender, as the juvenile offender being transported. (3-20-20)

07. Transport in Personal Vehicles. Juveniles in the custody of the Department will not be transported in Provider employee personal vehicles unless an emergency exists and is substantiated by documentation. (3-20-20)

221. CASE MANAGEMENT REPORTING REQUIREMENTS.

Each juvenile offender's progress, or lack of progress, must be clearly documented and be related to documented behavior. Recommendations for release from Department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident which threatens the safety of others or the stability of the overall program. (3-20-20)

01. Service Implementation Plan. Within thirty (30) calendar days of the juvenile offender's admission into the program, a written service implementation plan must be developed. The service implementation plan must address the specific goals identified in the service plan from the observation and assessment report. The service implementation plan should, at a minimum, address the following areas as indicated by need: (3-20-20)

- a. Education and employment; (3-20-20)
- b. Personality and behavior; (3-20-20)
- c. Substance abuse; (3-20-20)
- d. Attitudes, values, and delinquent orientation; (3-20-20)
- e. Family circumstances and parenting; (3-20-20)
- f. Peer relations; (3-20-20)
- g. Leisure and recreation; (3-20-20)
- h. Sexual misconduct; and (3-20-20)
- i. Specialized needs. (3-20-20)

02. Juvenile Offender and Family Involvement. Each juvenile offender and, to the fullest extent possible, the family, should be involved in developing the service implementation plan and in adjusting that plan throughout the course of commitment. (3-20-20)

03. Service Implementation Plan Adjustments. The service implementation plan should be adjusted throughout placement with the

concurrence of the juvenile services coordinator following communication with the community treatment team. Specifically, the service implementation plan should be adjusted as new needs are identified, as goals are achieved, and as plans for reintegration are finalized. (3-20-20)

04. Department Assessments. Assessments provided by the Department shall not be repeated by the Provider at the time of admission into the program without specific justification provided to the regional clinical supervisor. (3-20-20)

05. Participation in Staffings. The Provider must participate in staffings with Department staff to discuss the juvenile offender's service implementation plan development and progress in treatment. (3-20-20)

06. Participation in the Progress Assessment/Reclassification. The Provider may be asked by the juvenile services coordinator to provide input necessary for periodic reassessments of the juvenile offender's progress and current risk level. In all cases, the Provider must participate to the fullest extent possible. (3-20-20)

07. Progress Report. A written progress report must be submitted to the juvenile services coordinator and any designees at least every two (2) months. The progress report should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). Areas of need that were included in the service implementation plan and identified in Subsection 221.01 of these rules should also be referenced in the progress report. Each progress report should also detail the level of involvement of the parent or guardian in the juvenile's treatment. (3-20-20)

08. Relapse Prevention Plan. Prior to completing the program, the Provider shall supply the juvenile with the relapse prevention plan form (DJC-271) provided by the Department. The plan must address areas of risk identified in the juvenile's service implementation plan, as well as interventions the juvenile will use to prevent future problems. While in treatment, the Provider will solicit feedback from the juvenile services coordinator every thirty (30) calendar days regarding the development of the juvenile's relapse prevention plan. The final relapse prevention plan is due to the juvenile services coordinator, or designee, no earlier than the date of the juvenile offender's reintegration staffing. (3-20-20)

09. Final Progress Report. A final progress report must be submitted to the juvenile services coordinator and any designees no earlier than fourteen (14) calendar days and no later than ten (10) calendar days prior to the juvenile offender's anticipated completion of the program. This report must include: (3-20-20)

- a. A current summary of the juvenile offender's progress; (3-20-20)
- b. A summary of the efforts to reach the juvenile offender's goals and objectives, including education; (3-20-20)
- c. Any unresolved goals or objectives; (3-20-20)
- d. Recommendation for continuing services, including education, in the home community; and (3-20-20)
- e. The current address of the juvenile. (3-20-20)

10. Report Distribution. Copies of the service implementation plan, progress reports, relapse prevention plan, and final progress report must be distributed by the Provider to the juvenile offender and the juvenile services coordinator and any designees. The juvenile services coordinator will review and forward the progress report to the juvenile probation officer, appropriate court, and parent or guardian, unless the juvenile offender's family has been excluded from treatment by the juvenile services coordinator and the respective clinical supervisor for a well-documented reason. (3-20-20)

222. INDIVIDUAL COMMUNITY PASSES.

Prior to granting any individual community pass to a juvenile offender, the Provider must contact the juvenile probation officer and the juvenile services coordinator, to ensure that neither the court nor the Department has placed restrictions on the juvenile offender's pass privileges. All requests for passes must be approved by the juvenile services coordinator. Any pass involving an overnight stay away from the facility, or involving special circumstances such as a sexual abuse victim in the home, requires a written plan detailing supervision and safety measures to be taken, an itinerary for the visit, transportation plan, and must be approved in writing five (5) business days in advance by the juvenile services coordinator. Each time a juvenile offender leaves on and returns from an individual community pass, the Provider must notify the juvenile correctional center

in Nampa of this movement, promptly at the time that the juvenile offender leaves and returns. (3-20-20)

01. Potential Risk to Public Safety. Individual passes for juvenile offenders assigned to residential facilities should be considered as an integral part of the service implementation plan. However, in all cases, the potential risk to public safety and adequacy of home supervision must be considered prior to allowing a juvenile offender to return home. It is also important that passes not interfere with the ongoing treatment and supervision needed by juvenile offenders. Providers must provide parents or guardians with clearly written guidelines for approved passes, which must be signed by parents or guardians indicating their understanding and willingness to comply with those guidelines. The Department's pass form may be used for this purpose. If the Department's form is not used, the form signed and agreed to by the individual assuming responsibility for supervision must contain at least the following information: (3-20-20)

- a.** The juvenile offender's name and date of birth; (3-20-20)
- b.** The name, address, and telephone number of the individual assuming responsibility; (3-20-20)
- c.** Authorized days, dates, and times for the pass, including the specific date and time of departure and of return;
- d.** A complete listing of the anticipated locations and activities in which the juvenile offender is expected to be involved; (3-20-20)
- e.** Specific plans for supervision and telephone checks to verify compliance with the pass conditions; (3-20-20)
- f.** A complete listing of the activities required during the pass; (3-20-20)
- g.** Specific stipulations prohibiting: (3-20-20)
 - i.** The use of alcohol, tobacco, and drugs; (3-20-20)
 - ii.** Involvement in any illegal activity or association with others who may be or have been involved in illegal behavior; (3-20-20)

- iii. Participation in sexual relations of any kind; (3-20-20)
- iv. Possession of any kind of firearm or weapon; and (3-20-20)
- v. Any violation of the terms of probation. (3-20-20)

h. Specific stipulations about search and drug testing upon return, and the possible consequences for violation of any of the terms of the pass agreement. (3-20-20)

02. Eligibility. A juvenile offender must be in placement a minimum of thirty (30) calendar days to be eligible for any pass. Any exceptions due to extenuating circumstances must be approved by the juvenile services coordinator. (3-20-20)

03. Frequency. Frequency of passes must be consistent with the terms of the juvenile offender's service implementation plan and Provider's contract with the Department. (3-20-20)

04. Documentation. Documentation of the exact date and time of the juvenile offender's departure from the program for a pass, and return, must be maintained along with complete information about the individual assuming physical custody, transportation, and supervision during the pass. (3-20-20)

223. GROUP ACTIVITIES OFF FACILITY GROUNDS.

An activity plan and itinerary covering activities to be engaged in, when and where the group is going, how they will travel, how long they will stay, and why the activity is being planned must be submitted to the juvenile services coordinator at least five (5) business days prior to the activity. The activity plan must identify the specific risk elements associated with the activity and provide a safety plan for each of those risk elements. Routine, low risk activities within the local community adjacent to the facility do not require prior notice, and are to be conducted at the discretion of and under the responsibility of the Provider. (3-20-20)

01. Recreational Activities. A pass authorizing the participation of juvenile offenders in outdoor recreational or work activities with an increased risk, such as overnight trips, must be signed by the juvenile services coordinator and juvenile probation officer prior to the activity. Any proposed activity that involves horseback riding, boating,

rappelling, rock climbing, or higher risk activity must also have the prior approval, in writing, of the Department's regional superintendent. (3-20-20)

02. Staff Requirements. (3-20-20)

a. A basic first aid kit will be taken with the group. At least one (1) person certified in first aid and CPR must accompany the group (3-20-20)

b. Swimming, boating, or rafting will only be allowed when a staff in attendance has certification in rescue and water safety, or if a lifeguard is on duty. All juvenile offenders involved in boating or rafting activities must wear an approved personal flotation device. (3-20-20)

c. A staff to juvenile offender ratio of one to six (1:6) will be adhered to as a minimum unless there is a reason to require more staff. The risk level of the activity, as well as any physical disabilities, high client irresponsibility, mental deficiencies, or inclusion of groups of juvenile offenders under age twelve (12), are some reasons to consider additional staff. (3-20-20)

d. All participants will be recorded in the activity plan and identified as program clients, staff, or volunteers. The individual staff or volunteer satisfying the above first aid and CPR requirements must be identified in the plan. (3-20-20)

e. There will be no consumption of alcoholic beverages or illicit drugs by staff or juvenile offenders, interns, or volunteers while engaged in any agency-sponsored trip or activity. (3-20-20)

03. Consent Forms. Recreational activities identified as presenting a higher risk require prior written approval in accordance with Subsection 223.01 of these rules. Each juvenile offender must have prior written consent from a parent or guardian, if available, and the Department's regional superintendent, including: (3-20-20)

a. Permission for the juvenile offender's participation; (3-20-20)

b. Acknowledgment of planned activities; and (3-20-20)

- c. Permission for the Provider to seek or administer necessary medical attention in an emergency. (3-20-20)

04. Activity Reports. At the conclusion of each overnight or high risk recreational activity pass, the Provider must document in the juvenile offender's file and include in the progress report, any significant positive or negative events that transpired while the juvenile offender was on pass. Any unusual occurrences must be reported to the juvenile services coordinator and documented on an incident report as identified in Subchapter A. A drug screening urinalysis may be conducted on each returning juvenile offender, at the expense of the Provider, and the results of that exam reported to the juvenile services coordinator. (3-20-20)

224. EDUCATION SERVICES.

01. Appropriate Services. The Provider must ensure that each juvenile offender is given appropriate educational and vocational services that are consistent with the juvenile offender's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. Providers must assure that educational services provided as a part of an overall program play an integral part in the process of reclaiming juvenile offenders to responsible roles in society. Educational services must strive to facilitate positive behavior change by helping juvenile offenders to develop abilities in academic, workplace, and technological areas; to restructure harmful or limiting cognitive patterns; and, to adopt appropriate social interactions skills. Educational services provided must use whatever combination of approaches and motivations that will best facilitate the learning process in conjunction with the service implementation plan. All educational services provided must meet all mandates of the Elementary Secondary Education Act (ESEA), the IDEA, the Family Educational Rights and Privacy Act (FERPA), and the Rehabilitation Act of 1973 (Section 504). (3-20-20)

02. Mandatory Enrollment. Providers must ensure that all juvenile offenders involved in their programs who are of mandatory school age in the applicable state, or who have not yet obtained a General Educational Development (GED) or high school diploma, are enrolled in a school system or in a program approved and certified by the applicable state's Department of Education to provide both special education and other services. For those who have obtained a GED or high school diploma, an appropriate educational and vocational service must be provided in accordance with the service implementation plan. (3-20-20)

03. Cooperative Relationships. Providers may provide educational services through a cooperative agreement with the local education agency or through an in-house educational program administered by the Provider. If a local education agency provides the services, it is expected that the Provider will have a written agreement with a local education agency that clearly defines the services that will be provided in the contract facility. The written agreement must include, at a minimum, all of the following: (3-20-20)

a. Level of participation in reintegration planning for each juvenile offender; (3-20-20)

b. That grades will be submitted to the Department within two (2) business days of transfer or release from Department custody; (3-20-20)

c. Curriculum for special education services, if appropriate; (3-20-20)

d. A plan for the provision of state required testing; and (3-20-20)

e. Types of services that will be provided beyond the established limits of the regular school year for that school district. (3-20-20)

04. Costs of Educational Services. If a local education agency agreement is developed, the Idaho Department of Education will flow education funds to the local education agency in a manner consistent with current legislative funding mandates. A copy of the memorandum of understanding between the Provider and the local education agency must be provided to the Department, and the source of funds to cover the costs for educational services clearly accounted for in the budget. If the Provider elects to provide the services in-house, the cost of educational services will be included in the daily contract rate. The Provider will not be eligible to receive educational funding through both of these sources. (3-20-20)

05. Accreditation Requirements. Each Provider serving juvenile offenders, who have been committed to the Department, will have, or contract with, an education program that will meet the accreditation standards of a Department-approved accreditation agency or the applicable state's Department of Education (3-20-20)

06. Educational Assessment. Federal and state laws mandate that juvenile offenders be provided with an appropriate education. Providers are responsible for providing an educational track that will best serve the needs of each juvenile offender, as determined by the assessment provided by the Department through the observation and assessment process, or as determined by an assessment completed by a local school district. A copy of the relevant assessment and related current and valid education plan, as well as all supporting documentation for each juvenile offender, must be maintained in a separate file and be available to the Department and to the Idaho Department of Education. A copy of the IEP and all supporting documentation must be sent to the Department within ten (10) business days or less of its completion for inclusion in the juvenile offender's permanent school records that are maintained by the Department. (3-20-20)

a. Providers are responsible for ongoing, yearly reassessment of each juvenile offender's progress within the education program as well as documenting and reporting that progress. This responsibility extends to completing a reassessment just prior to release from Department custody or transfer, and reporting academic gain both for individual juvenile offenders as well as composite data for the education program overall. (3-20-20)

b. Consistent with statewide educational standards, providers are responsible for assuring that each juvenile offender is tested in accordance with the applicable state's assessment schedule and all required measures. Any fees associated with the testing services are paid by the Provider. Results of testing must be submitted to the Department within ten (10) business days after the Provider's receipt of the scores. (3-20-20)

07. GED Eligibility. Providers must assure that GED tests are administered to juvenile offenders meeting the criteria established in the administrative rules of the applicable state's Board of Education for school districts. All GED testing application fees will be paid by the Provider. Test results must be submitted to the Department within ten (10) business days after the receipt of the scores. (3-20-20)

08. Special Education Services. (3-20-20)

a. The Provider must ensure that the special educational needs of juvenile offenders are addressed. The Provider's in-house

program or cooperating local education agency program must comply with Section 504 and the IDEA, as well as any other applicable state or federal laws. Under no circumstances will the Provider or its teaching staff make modifications in the juvenile offender's Section 504 or the IDEA educational program without conducting a Child Study Team meeting in consultation with the Department's educational coordinator, or designee. (3-20-20)

b. Providers must make every reasonable effort and thoroughly document all efforts to contact parents or guardians of juvenile offenders identified as eligible for special education. If it is not possible to involve the natural parents or guardians, a surrogate parent must be appointed by the agency providing special educational services. This surrogate cannot be the director or other employee of an agency, institution, or community-based residential facility who is involved in providing care or education to a juvenile offender, or an employee of a state agency or agency volunteer, such as caseworker, social worker, or court-appointed special advocate who has been appointed by the state to provide for the welfare of the student. A surrogate parent is used only for special educational requirements and has no other legal authority. (4-11-15)

09. Standards for Instructional Time. Providers must assure that the school day is consistent with at least the minimum standard established for high schools by a Department-approved accreditation agency. The length of the school day will further meet all requirements established by state and federal laws, regulations, and accreditation standards. Providers must provide an appropriate educational or vocational program for each juvenile offender for twelve (12) months of the year. At a minimum, this involves four (4) hours per day, five (5) days per week throughout the full calendar year. Juvenile offenders involved in any disciplinary process must not be denied their right to education and other related services. If security or other related concerns are present that may prohibit a juvenile offender's participation in educational programming, an education plan review will be completed and documented in an incident report. If the juvenile offender is eligible for services under the IDEA or Section 504, a Child Study Team will meet to make a determination as to whether or not the behavior is a result of the juvenile offender's handicap. All due process procedures will be followed according to the administrative rules for special education. (3-20-20)

10. Educational Records and Confidentiality. (3-20-20)

a. Educational records must be maintained by the Provider at all times in accordance with FERPA with, at a minimum, the following information included in the record: (3-20-20)

i. Subjects taken; (3-20-20)

ii. Grades by subject and explanation of the grading system; (3-20-20)

iii. Units of credit with explanation; (3-20-20)

iv. Attendance records; and (3-20-20)

v. Any standardized test scores. (3-20-20)

b. Reports of the juvenile offender's educational progress (report cards) must be provided to the Department within ten (10) business days after the end of the school's grading periods (midterm, semester, trimester, etc.). (3-20-20)

c. Providers must ensure that juvenile offender educational files are consistently maintained to ensure compliance with FERPA. (3-20-20)

d. The Provider will provide final withdrawal grades and credits within twenty-four (24) hours or next business day after the juvenile offender is released from Department custody or transferred. The Provider must notify the Department that the final grades have been entered into the software program. Working educational files must be returned to the Department within ten (10) business days of the juvenile offender's release from Department custody or transfer. (3-20-20)

225. PROVISION OF MEDICAL SERVICES.

01. Medical Care. Each juvenile offender must be provided with medical, dental, optical, mental health, emergency or any other related health services while in the Provider's care. Each Provider must have access, on a twenty-four (24) hour basis, to a licensed general hospital, clinic or physician, psychiatrist, and dentist to provide juvenile offenders with professional and qualified physical or mental health services, including medications. Medical and mental health screenings must be provided within two (2) hours of a juvenile offender's admission

to a program. Comprehensive and professional medical and mental health assessments must be provided by the Provider within thirty (30) calendar days of admission, unless these are provided by the Department. A copy of these assessments must be forwarded to the Department's regional R.N. (3-20-20)

02. Medical Consent. As part of the admission process, the Provider must have a copy of the Department's Release of Information and Consent form signed by a juvenile offender's parent, guardian, or committing authority. The consent form must be filed in the juvenile offender's medical file maintained by the Provider. (3-20-20)

03. Emergency Medical Treatment. In cases of emergency medical treatment requiring signed authorization for juveniles in the custody of the Department, reasonable efforts must be made to obtain the consent of the parent or guardian. The signature of only one (1) parent or guardian is sufficient to form consent or authorization. Should the parent or guardian not be available or refuse to sign, the authorization may be signed by the Department's regional R.N., or designee. This does not restrict the Provider from taking action in life and death situations. (3-20-20)

04. Reimbursement Sources. The Provider must utilize private insurance or Medicaid, if available, for funding medical, dental, optical, mental health, or related services, and pharmaceutical products for any juvenile offender. The Provider cannot seek reimbursement from private insurance or Medicaid for health services that are the fiscal responsibility of the Provider pursuant to its contract with the Department. Any health services not listed in these rules, other than emergency treatment, which was not approved in advance by the Department's regional R.N., or designee, will be at the expense of the Provider. (3-20-20)

226. ADMISSION AND ANNUAL HEALTH SERVICES AND TREATMENT RECORDS.

01. Compliance with Child Care Licensing Rules. Admission and annual health services must be provided to juvenile offenders in accordance with the child-care licensing rules of the Idaho Department of Health and Welfare, unless otherwise provided in these rules. (3-20-20)

02. Prior Approval. No prior approval or review from the Department's regional R.N. is required for admission and annual health services. Examples of admission and annual health services for which no prior approval or review is required are: (3-20-20)

a. Admission physical exams, including STD exams and treatment; (3-20-20)

b. Admission dental exams, including x-rays and cleanings (no panoramic x-rays or sealants); (3-20-20)

c. Admission eye exams and glasses, if needed; (3-20-20)

d. Annual physical exams, including STD exams and treatment; (3-20-20)

e. Annual dental exams with x-rays and cleanings (no panoramic x-rays or sealants); and (3-20-20)

f. Annual eye exams, if needed, and new glasses, only if needed. (3-20-20)

03. Medical Records. Any time a juvenile offender receives treatment under this section or for any similar service, the Provider must retain the original medical record regarding treatment and immediately send a copy to the Department's regional R.N. (3-20-20)

227. PRIVACY OF MEDICAL RECORDS AND INFORMATION.

01. Confidentiality. Confidentiality of personal health information of each juvenile offender must be maintained in accordance with the Privacy Regulations promulgated under HIPAA or, if more stringent, the laws of the applicable state. Compliance with these regulations is the responsibility of the Provider. Staff may be provided information about a juvenile offender's medical condition only when that knowledge is necessary for the performance of their job duties. (3-20-20)

02. Privacy Officer. The Provider must appoint a privacy officer to oversee that the control and maintenance of all juvenile offender health and medical records is in compliance with the federal Privacy Regulations, 45 Code of Federal Regulations Sections 160 and 164. (3-20-20)

03. Separate Records. All juvenile offender medical and health records must be kept in files that are physically separated from other juvenile offender files and information, and under a system of security against unauthorized access. (3-20-20)

228. NOTIFICATION OF CRITICAL HEALTH INCIDENTS. The Provider must immediately report critical medical and mental health incidents according to Subchapter A of these rules. (3-20-20)

229. INFECTIOUS DISEASES.

01. Policies. (3-20-20)

a. The Provider must establish policies and procedures for serving juvenile offenders with infectious diseases such as tuberculosis, hepatitis, and HIV or AIDS. These policies and procedures should address the management of infectious diseases, provide an orientation for new staff and juvenile offenders concerning the diseases, and ongoing education for staff and juvenile offenders regarding these diseases. Policies and procedures should be updated as new information becomes available. Individual health information or counseling will be made available by a medical health professional for juvenile offenders diagnosed with an infectious disease. (3-20-20)

b. The Provider must comply with the child-care licensing rules of the Idaho Department of Health and Welfare, or applicable state's licensing authority, regarding universal precautions. (3-20-20)

02. HIV Testing. In accordance with law, a juvenile offender over age fourteen (14) may request to be tested for the presence of HIV. Any such juvenile offender requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. (3-20-20)

03. Examinations. Examinations must be performed by medical professionals on any juvenile offender for all symptomatic cases of infectious diseases such as tuberculosis, ova and parasites, infectious hepatitis, and sexually transmitted diseases. Juvenile offenders will be tested and, if indicated, treated. (3-20-20)

04. Notifications. The Provider must notify the Department's

regional R.N. within three (3) business days of any positive test results, treatment recommendations, and follow up care. (3-20-20)

230. PREGNANCY.

01. Individual Medical Plan. Within the individual medical plan, specific goals and objectives will be developed when a pregnancy has been diagnosed. The plan must be based on the orders of the juvenile offender's licensed healthcare provider and include special care, location for delivery, a plan for infant care after delivery, regular medical check-ups, and special dietary and recreational needs. At no time may the infant remain in the Provider's facility. A copy of the individual medical plan will be sent to the Department's regional R.N. (3-20-20)

02. Parenting Classes. Parenting classes must be an integral part of the individual medical plan for all pregnant female juvenile offenders. This service should also be offered as a priority to male juvenile offenders in Department custody who are already fathers or whose spouse or girlfriend is expecting a child. (3-20-20)

03. Medicaid Reimbursement. Medical services relating to pregnancy must be provided by a licensed healthcare provider and facility accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile offender's family. (3-20-20)

231. REFUSAL OF TREATMENT.

Refusal of medications or treatment recommended by a physician for three (3) consecutive days requires immediate notification to the Department's regional R.N. according to Subchapter A of these rules. (3-20-20)

01. Refusal of Recommended Treatment by Physician. If a juvenile offender chooses to refuse treatment or medication recommended by a physician, the juvenile offender must sign a detailed statement refusing this care. A Provider staff member must witness the juvenile offender's signature. This refusal form will be filed in the juvenile offender's medical record and a copy sent to the Department's regional R.N. within twenty-four (24) hours. (3-20-20)

02. Where Refusal Poses Significant Risk. If a juvenile offender refuses a treatment or medication for a condition that poses a significant risk of death or permanent physical impairment, the Provider must ensure the juvenile receives immediate medical attention. The

Provider will notify the Department's regional R.N. by phone as soon as possible. (3-20-20)

232. USE OF MEDICATIONS.

01. Written Policy. The Provider must have written policies and procedures governing the use and administration of medication to juvenile offenders that conform to all applicable laws and regulations including, but not limited to, those of the Idaho Department of Health and Welfare or the applicable state's licensing authority. (3-20-20)

02. Notification. If initiating or modifying any medication, the Department's regional R.N. must be notified of the following: (3-20-20)

a. The name of the prescribed medication; (3-20-20)

b. The name and phone number of the prescribing doctor, nurse practitioner, or physician's assistant; and (3-20-20)

c. The reason the medication is being prescribed. (3-20-20)

233. – 299. (RESERVED)

SUBCHAPTER C – RULES FOR REINTEGRATION PROVIDERS

300. INITIATION OF SERVICES.

Juveniles are committed to the Department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-549, Idaho Code). (3-20-20)

301. WAIVER OR VARIANCE.

Minimum program standards established herein apply to all services provided by the Provider. Any waiver or variance from the standards stated in these rules must receive prior written approval from the Department and be attached as a formal amendment to the contract. (3-20-20)

302. APPLICABILITY.

This subchapter applies to Providers of reintegration and independent living skills that coordinate needed treatment services identified in

individual service implementation plans. Reintegration Providers must also abide by Subchapter A of these rules. (3-20-20)

303. AUTHORITY TO INSPECT.

01. Inspections. The Department has the authority to conduct reviews of programs, program operations, juvenile offender placements, and facilities to ensure the Provider's compliance with these rules. The Provider shall cooperate with the Department's review, and provide access to the facility and all juvenile records for juveniles in Department custody, as deemed necessary by the Department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available, upon request. (3-20-20)

02. Site Visit. If the juvenile offender is living independently, the juvenile services coordinator, or designee, shall conduct site visits of the residence prior to occupancy. (3-20-20)

304. CLOTHING AND PERSONAL ITEMS.

The Provider must ensure that the juvenile offender has sufficient clothing. The Provider shall not require the juvenile offender to purchase clothing with the juvenile's personal funds unless the purchase is above and beyond the basic requirements of the Provider. Any clothing purchased with the juvenile offender's personal funds must be documented. The Provider will ensure the juvenile is provided education and resources needed for proper care and cleaning of clothing in the juvenile offender's possession. All clothing and incidentals become the property of the juvenile offender upon release. (3-20-20)

305. FOOD SERVICE.

The Provider must ensure that the juvenile has sufficient food at all times. The Provider may not require the juvenile offender to purchase food with the juvenile's personal funds unless the purchase is above and beyond the basic requirements of the Provider. Shopping, meal preparation, planning, and proper nutrition must be part of the independent living skills. (3-20-20)

306. PERSONAL FUNDS.

01. Funds Handled by a Provider. The Provider will follow generally accepted accounting practices in managing personal funds of juvenile offenders and must be able to demonstrate appropriate measures

of internal fiscal controls related to the juvenile's personal funds.

(3-20-20)

a. The Provider must establish a written budget for a juvenile, as part of the service implementation plan, for the use of the juvenile offender's personal funds. There must be a specific allocation for daily incidental expenses.

(3-20-20)

b. If the amount of personal funds maintained for the juvenile offender does not exceed one hundred (100) dollars, the Provider may secure the funds locally, if the following conditions are met:

(3-20-20)

i. The juvenile offender's personal funds are kept in a fire resistant combination or digital lock-style safe that is permanently affixed to the floor or wall, or weighs at least 200 (two-hundred) pounds.

(3-20-20)

ii. The Provider has a process to clearly separate each juvenile offender's personal funds from one another.

(3-20-20)

iii. Access to juvenile offender personal funds is limited to the Program Director, or designee.

(3-20-20)

c. Upon the juvenile offender's personal funds exceeding one hundred (100) dollars, the reintegration Provider will assist the juvenile offender in opening an account in the juvenile's name at a public banking institution. Supported living Providers are required to deposit all personal funds collected for the juvenile offender in a public banking institution in an account in the juvenile's name.

(3-20-20)

d. The Provider must ensure that the juvenile offender saves at least thirty percent (30%) of income to be used at program completion for purchasing the resources for independent living and employment.

(3-20-20)

e. All withdrawals by a juvenile offender, or expenditures made on behalf of a juvenile offender by the Provider, must be documented, signed, and dated by the juvenile offender and reconciled to the juvenile offender's ledger monthly.

(3-20-20)

f. The Provider must develop written procedures governing

any limits to the amount of funds a juvenile offender may withdraw from their personal funds. (3-20-20)

g. The Provider may not require juvenile offenders, parents, or guardians to pay for services and supplies that, by contract, are to be provided by the Provider. (3-20-20)

h. There must be no commingling of juvenile personal funds with Provider funds. Borrowing or moving funds between juvenile personal accounts is prohibited. (3-20-20)

02. Reporting Requirements. A personal funds report that shows a list of all juvenile offender account balances must be submitted monthly to the juvenile services coordinator. The personal fund account is subject to review and audit by the Department or its representatives at any time. Any discrepancies in juvenile offender accounts must be resolved by the Provider within five (5) business days of completion of the review. (3-20-20)

03. Transfer of Personal Funds. If a juvenile offender is transferred to another program, the balance of the juvenile offender's locally secured funds must be given or mailed to the Department's fiscal services within ten (10) business days and documented on the Provider Juvenile Check-Out Form (DJC-180) supplied by the Department, and on the final progress report. (3-20-20)

307. JUVENILE OFFENDER MAIL.

01. Restrictions. Juvenile offenders must be allowed to send and receive letters from approved persons, which may include persons in other programs or institutions, unless specifically prohibited by the Department or by court order. All other restrictions of mail must be discussed with the community treatment team, approved in writing by the juvenile services coordinator, and documented in the juvenile offender's service implementation plan. There must be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. Juvenile offenders will be provided with sufficient stationery, envelopes, and postage for all legal and official correspondence. (3-20-20)

02. Reading of Letters. Routine reading of letters by staff is prohibited. The Department or court may determine that reading of a

juvenile offender's mail is in the best interest of the juvenile offender, and is necessary to maintain security, order, or program integrity. However, such reading of mail must be documented and, unless court ordered, must be specifically justified and approved by the juvenile services coordinator. (3-20-20)

03. Privileged Mail. Under no circumstances shall a juvenile offender's privileged mail be read. (3-20-20)

04. Packages. Packages may be inspected for contraband but only in the presence of the juvenile offender. (3-20-20)

05. Publications. Books, magazines, newspapers, and printed matter which may be legally sent to juvenile offenders through the postal system may be approved by the Provider, unless deemed to constitute a threat to the security, integrity, or order of the programs. (3-20-20)

06. Distribution of Mail. The collection and distribution of mail must never be delegated to a juvenile offender. Staff must deliver mail within twenty-four (24) hours, excluding weekends and holidays, to the juvenile offender to whom it is addressed, unless the juvenile is living independently. (3-20-20)

308. VISITATION.

01. Visitation Policy. The Provider must develop a written policy governing visitation, which protects the safety of visitors, staff, and juvenile offenders. This policy may restrict visitation to the residence of visitors below an established age or provide for higher levels of supervision in circumstances where safety of visitors, staff, and juvenile offenders may be at risk. The Provider must provide a copy of the visitation policy to each juvenile offender, his parent or guardian, and the juvenile services coordinator. In all cases, the Provider will work with the juvenile services coordinator and juvenile probation officer to identify and approve potential visitors in accordance with the Provider's criteria. (3-20-20)

02. Visitor Admission. If there is reason to believe a visitor is under the influence of alcohol or drugs or possesses illegal contraband, admission into the residence must be denied. Visitors who bring in items that are unauthorized, but not illegal, must either be denied admission into

the program or residence or have these items taken and locked in an area inaccessible to the juvenile offenders during the visit. These items will be returned to the visitors upon their exit from the program or residence. All visitors denied access to the program or residence, and the reason for their denial, must be documented. (3-20-20)

309. GUIDELINES FOR SPECIFIC SERVICES.

01. Counseling and Other Outpatient Services. The Provider must schedule all initial outpatient appointments, such as drug and alcohol counseling, for the juvenile offender within five (5) business days of arrival into the program. The Provider should be able to demonstrate that counseling interventions are shared in general with other program service providers, and there is broad mutual support for the goals of counseling in all service areas of the program. (3-20-20)

02. Behavior Assessment. Supported living Providers must use a current assessment of independent behavior capacity to determine the levels of service needed. (3-20-20)

03. Life Skills and Independent Living. Programs must be able to demonstrate that juvenile offenders are taught basic life skills. This program should include, at a minimum, instruction in: (3-20-20)

a. Hygiene and grooming skills; (3-20-20)

b. Laundry and maintenance of clothing; (3-20-20)

c. Appropriate social skills; (3-20-20)

d. Housekeeping; (3-20-20)

e. Use of recreation and leisure time; (3-20-20)

f. Use of community resources, such as identifying medical and mental health providers; (3-20-20)

g. Handling personal finances and issues such as leases, contracts, cell phone usage and agreements, insurance, banking, and credit management with some support and intervention; (3-20-20)

h. Use of public transportation, where available; (3-20-20)

- i. Budgeting and shopping; (3-20-20)
- j. Cooking; (3-20-20)
- k. Punctuality, attendance, and other employment-related matters; (3-20-20)
- l. Vocational planning and job finding skills; (3-20-20)
- m. Wears clothing appropriate for the weather and activity; (3-20-20)
- n. Takes own medication, as prescribed; (3-20-20)
- o. Obtains and produces identification, as needed; and (3-20-20)
- p. Travels to and from necessary destinations. (3-20-20)

310. CASE MANAGEMENT REPORTING REQUIREMENTS.

Each juvenile offender's progress or lack of progress must be clearly documented and be related to documented behavior. Recommendations for release from Department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident, which threatens the safety of others or the stability of the overall program. (3-20-20)

01. Service Implementation Plan. Within ten (10) business days of the juvenile offender's admission into the program, a written service implementation plan must be developed. The service implementation plan must address the specific goals identified in the most recent progress report and reintegration plan from the sending facility or program. The service implementation plan must address the needs and areas in the reintegration plan. (3-20-20)

02. Juvenile Offender and Family Involvement. Each juvenile offender and, to the fullest extent possible, the family, should be involved in developing the service implementation plan and in adjusting that plan throughout the course of commitment. (3-20-20)

03. Service Implementation Plan Adjustments. The service implementation plan should be adjusted throughout placement with the concurrence of the juvenile services coordinator following communication with the community treatment team. Specifically, the service implementation plan should be adjusted as new needs are identified, as goals are achieved, and as plans for reintegration are finalized. (3-20-20)

04. Participation in Staffings. The Provider must participate in staffings with Department staff to discuss the juvenile offender's service implementation plan development and progress in treatment. (3-20-20)

05. Participation in the Progress Assessment/Reclassification. The Provider may be asked by the juvenile services coordinator to provide input necessary for periodic reassessments of the juvenile offender's progress and current risk level. In all cases, the Provider must participate to the fullest extent possible. (3-20-20)

06. Progress Report. A written progress report must be submitted to the juvenile services coordinator and any designees at least every month, and include current bank statements and reconciled monthly budget. The progress report should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). Each progress report should also note any changes or further development of the service implementation plan and should detail the level of involvement of the parent or guardian in the juvenile's treatment. (3-20-20)

07. Relapse Prevention Plan. The Provider will receive a working copy of the juvenile offender's relapse prevention plan from the Department. The Provider must work with the juvenile to continue developing the relapse prevention plan provided, as the juvenile experiences increased exposure to the community. The Provider must send the final relapse prevention plan to the juvenile services coordinator and any designees prior to the juvenile offender's release from Department custody. (3-20-20)

08. Final Progress Report. A final progress report must be submitted to the juvenile services coordinator and any designees no earlier than fourteen (14) calendar days and no later than ten (10) calendar days prior to the juvenile offender's anticipated completion of the program. This report must include: (3-20-20)

- a. A current summary of the juvenile offender's progress; (3-20-20)
- b. A summary of the efforts to reach the juvenile offender's goals and objectives, including education; (3-20-20)
- c. Any unresolved goals or objectives; (3-20-20)
- d. Recommendation for continuing services, including education, in the home community; and (3-20-20)
- e. The current address of the juvenile. (3-20-20)

09. Report Distribution. Copies of the service implementation plan, progress reports, relapse prevention plan, and final progress report must be distributed by the Provider to the juvenile offender and the juvenile services coordinator and any designees. The juvenile services coordinator will review and forward the progress report to the juvenile probation officer, appropriate court, and parent or guardian, unless the juvenile offender's family has been excluded from treatment by the juvenile services coordinator and the respective clinical supervisor for a well-documented reason. (3-20-20)

311. OVERNIGHT COMMUNITY PASSES.

Any pass involving an overnight stay away from the program or residence, or involving special circumstances such as a sexual abuse victim in the home, requires a written plan detailing supervision and safety measures to be taken, an itinerary for the visit, transportation plan, and must be approved in writing five (5) business days in advance by the juvenile services coordinator. Each time a juvenile offender leaves on and returns from an overnight community pass, the Provider must notify the juvenile correctional center in Nampa of this movement, promptly at the time that the juvenile offender leaves and at the time he returns. (3-20-20)

01. Potential Risk to Public Safety. If the pass is to the home of a parent or guardian, reintegration Providers must provide parents or guardians with clearly written guidelines for approved passes, which must be signed by parents or guardians indicating their understanding and willingness to comply with those guidelines. The Department's pass form may be used for this purpose. If the Department's form is not used, the form signed and agreed to by the individual assuming responsibility for supervision must contain at least the following information: (3-20-20)

- a.** The juvenile offender's name and date of birth; (3-20-20)
- b.** The name, address, and telephone number of the individual assuming responsibility; (3-20-20)
- c.** Authorized days, dates, and times for the pass, including the specific date and time of departure and of return; (3-20-20)
- d.** A complete listing of the anticipated locations and activities in which the juvenile offender is expected to be involved; (3-20-20)
- e.** Specific plans for supervision and telephone checks to verify compliance with the pass conditions; (3-20-20)
- f.** A complete listing of the activities required during the pass; (3-20-20)
- g.** Specific stipulations prohibiting: (3-20-20)
 - i.** The use of alcohol and drugs; (3-20-20)
 - ii.** Involvement in any illegal activity, or association with others who may be or have been involved in illegal behavior; (3-20-20)
 - iii.** Participation in sexual relations of any kind; (3-20-20)
 - iv.** Possession of any kind of firearm or weapon; (3-20-20)
 - v.** Any violation of the terms of probation; and (3-20-20)
- h.** Specific stipulations about search and drug testing upon return, and the possible consequences for violation of any of the terms of the pass agreement. (3-20-20)

02. Frequency. Frequency of passes must be consistent with the terms of the juvenile offender's reintegration plan and reintegration Provider's contract with the Department. (3-20-20)

03. Documentation. Documentation of the exact date and time of the juvenile offender's departure from the program for a pass, and his return, must be maintained along with complete information

about the individual assuming physical custody, transportation, and supervision during the pass. (3-20-20)

312. ACTIVITIES.

01. Recreational Activities. A pass authorizing the participation of juvenile offenders in outdoor recreational or work activities with an increased risk or overnight trips must be signed by the juvenile services coordinator and juvenile probation officer prior to the activity. Any proposed activity that involves boating, rappelling, rock climbing, or higher risk activity must also have the prior approval, in writing, of the Department's regional superintendent. (3-20-20)

02. Staff Requirements for Group Activities. (3-20-20)

a. A basic first aid kit will be taken with the group. At least one (1) person certified in first aid and CPR must accompany the group. (3-20-20)

b. Swimming, boating, or rafting will only be allowed when a staff in attendance has certification in rescue and water safety or if a lifeguard is on duty. All juvenile offenders involved in boating or rafting activities must wear an approved personal flotation device. (3-20-20)

c. A staff to juvenile offender ratio of one to six (1:6) will be adhered to as a minimum unless there is a reason to require more staff. The risk level of the activity, as well as any physical disabilities, high client irresponsibility, or mental deficiencies are some reasons to consider additional staff. (3-20-20)

d. All participants will be recorded in the activity plan and identified as program clients, staff, or volunteers. The individual staff or volunteer satisfying the above first aid and CPR requirements must be identified in the plan. (3-20-20)

e. There will be no consumption of alcoholic beverages or illicit drugs by juvenile offenders, staff, volunteers, or interns. (3-20-20)

03. Consent Forms. Recreational activities identified as presenting a higher risk require prior written approval in accordance with Subchapter A of these rules. Each juvenile offender must have prior

written consent from the Department's regional superintendent including:
(3-20-20)

a. Permission for the juvenile offender's participation;
(3-20-20)

b. Acknowledgment of planned activities; and (3-20-20)

c. Permission for the Provider to seek or administer necessary medical attention in an emergency. (3-20-20)

04. Activity Reports. At the conclusion of each overnight or high-risk recreational activity pass, the Provider must document in the juvenile offender's file and include in the progress report, any significant positive or negative events that transpired while the juvenile offender was on pass. Any unusual occurrences must be reported to the juvenile services coordinator and documented on an incident report as identified in Subchapter A of these rules. A drug screening urinalysis may be conducted on each returning juvenile offender, at the expense of the Provider, and the results of that exam reported to the juvenile services coordinator.
(3-20-20)

313. EDUCATION SERVICES.

01. Appropriate Services. The Provider must ensure that each juvenile offender is given appropriate educational and vocational services that are consistent with the juvenile offender's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. Providers must assure that educational services provided as a part of an overall program play an integral part in the process of reclaiming juvenile offenders to responsible roles in society. Educational services must strive to facilitate positive behavior change by helping juvenile offenders to develop abilities in academic, workplace, and technological areas; to restructure harmful or limiting cognitive patterns; and, to adopt appropriate social interactions skills. Educational services provided must use whatever combination of approaches and motivations that will best facilitate the learning process in conjunction with the service implementation plan. All educational services provided must meet all mandates of the Elementary Secondary Education Act (ESEA), the IDEA, the Family Educational Rights and Privacy Act (FERPA), and the Rehabilitation Act of 1973 (Section 504). (3-20-20)

02. Mandatory Enrollment. Providers must ensure that all juvenile offenders involved in their programs who are of mandatory school age in the applicable state, or who have not yet obtained a General Educational Development (GED) or high school diploma, are enrolled in a school system or in a program approved and certified by the applicable state's Department of Education to provide both special education and other services. For those who have obtained a GED or high school diploma, an appropriate educational and vocational service must be provided in accordance with the service implementation plan. (3-20-20)

314. PROVISION OF MEDICAL SERVICES.

01. Medical Care. Each juvenile offender must be provided with medical, dental, optical, mental health, emergency or any other related health services while in the Provider's care. Each Provider must have access, on a twenty-four (24) hour basis, to a licensed general hospital, clinic or physician, psychiatrist, and dentist to provide juvenile offenders with professional and qualified medical or mental health services, including medications. The Provider must coordinate services and assist juvenile offenders in interpreting and complying with any follow up care as requested by healthcare provider. Any time a juvenile offender receives treatment under this section or for any health related service, a copy of any medical or dental assessments, treatments, test results, and follow up care must be forwarded to the Department's regional R.N. (3-20-20)

02. Medical Consent. As part of the admission process, the Provider must have a copy of the Department's Release of Information and Consent form signed by a juvenile offender over eighteen (18) years of age. The consent form must be filed in the juvenile offender's case file maintained by the Provider. (3-20-20)

03. Emergency Medical Treatment. In cases of emergency medical treatment requiring signed authorization for juveniles in the custody of the Department, the authorization may be signed by the Department's regional R.N., or designee. This does not restrict the Provider from taking action in life and death situations. (3-20-20)

04. Reimbursement Sources. The Provider must utilize private insurance or Medicaid, if available, for funding medical, dental, optical, mental health, or related services, and pharmaceutical products for any juvenile offender. The Provider may not seek reimbursement from

private insurance or Medicaid for health services that are the fiscal responsibility of the Provider pursuant to its contract with the Department. Any health services not listed in these rules, other than emergency treatment, which was not approved in advance by the Department's regional R.N., or designee, will be at the expense of the Provider.

(3-20-20)

315. ADMISSION HEALTH SERVICES AND TREATMENT RECORDS.

01. Prior Approval. Prior approval or review from the Department's regional R.N. is required for all non-routine health services, other than emergency services. Prior approval may be given for up to five (5) routine, pre-scheduled medical appointments.

(3-20-20)

02. Medical Records. The Provider must assist the juvenile offender in organizing medical information, instructions, prescriptions, and any necessary follow up papers in a designated medical folder. Any time a juvenile offender receives treatment under this section or for any health related service, the Provider must retain the original medical record and immediately send a copy to the Department's regional R.N. (3-20-20)

03. Medical Billing. For uninsured juveniles, the Provider will notify the health care provider to submit medical bills directly to the Department's regional R.N. that approved the provision of services.

(3-20-20)

316. PRIVACY OF MEDICAL RECORDS AND INFORMATION.

To the extent the Provider has medical information, confidentiality of personal health information of each juvenile offender must be maintained in accordance with the Privacy Regulations promulgated under HIPAA or, if more stringent, the laws of the applicable state. Compliance with these regulations is the responsibility of the Provider. Staff may be provided information about a juvenile offender's medical condition only when that knowledge is necessary for the performance of their job duties. (3-20-20)

01. Privacy Officer. The Provider must appoint a privacy officer to oversee that the control and maintenance of all juvenile offender health and medical records is in compliance with the federal Privacy Regulations, 45 Code of Federal Regulations Sections 160 and 164.

(3-20-20)

02. Separate Records. All juvenile offender medical and health records must be kept in files that are physically separated from other juvenile offender files and information, and under a system of security against unauthorized access. (3-20-20)

317. NOTIFICATION OF CRITICAL HEALTH INCIDENTS.

The Provider must immediately report critical medical and mental health incidents according to Subchapter A of these rules. (3-20-20)

318. INFECTIOUS DISEASES.

01. Policies. The Provider must establish policies and procedures for serving juvenile offenders with infectious diseases such as tuberculosis, hepatitis, and HIV or AIDS. These policies and procedures should address the management of infectious diseases, provide an orientation for new staff and juvenile offenders concerning the diseases, and ongoing education for staff and juvenile offenders regarding these diseases. Policies and procedures should be updated as new information becomes available. Individual health information or counseling will be made available by a medical health professional for juvenile offenders diagnosed with an infectious disease. (3-20-20)

02. HIV Testing. In accordance with law, a juvenile offender over age fourteen (14) may request that he be tested for the presence of HIV. Any such juvenile offender requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. (3-20-20)

03. Examinations. Examinations must be performed by medical professionals on any juvenile offender for all symptomatic cases of communicable diseases such as tuberculosis, ova and parasites, infectious hepatitis, and sexually transmitted diseases. Juvenile offenders will be tested and, if indicated, treated. (3-20-20)

04. Notifications. The Provider must notify the Department's regional R.N. within three (3) business days of any positive test results, treatment recommendations, and follow up care. (3-20-20)

319. PREGNANCY.

01. Individual Medical Plan. Within the individual medical plan, specific goals and objectives will be developed when a pregnancy

has been diagnosed. The plan must be based on the orders of the juvenile offender's licensed healthcare provider and include special care, location for delivery, a plan for infant care upon delivery, regular medical check-ups, and special dietary and recreational needs. At no time may the infant remain in the Provider's facility. A copy of the individual medical plan will be sent to the Department's regional R.N. (3-20-20)

02. Parenting Classes. Parenting classes must be an integral part of the individual medical plan for all pregnant female juvenile offenders. This service should also be offered as a priority to male juvenile offenders in Department custody who are already fathers or whose spouse or girlfriend is expecting a child. (3-20-20)

03. Medicaid Reimbursement. Medical services relating to pregnancy must be provided by a licensed healthcare provider and facility accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile offender's family. (3-20-20)

320. REFUSAL OF TREATMENT.

Refusal of medications or treatment recommended by a physician for three (3) consecutive days requires immediate notification to the Department's regional R.N. according to Subchapter A of these rules. (3-20-20)

01. Refusal of Recommended Treatment by Physician.

If a juvenile offender chooses to refuse treatment or medication recommended by a physician, the juvenile offender must sign a detailed statement refusing this care. A Provider staff member must witness the juvenile offender's signature. This refusal form will be filed in the juvenile offender's medical record and a copy sent to the Department's regional R.N. within twenty-four (24) hours. (3-20-20)

02. Where Refusal Poses Significant Risk. If a juvenile offender refuses a treatment or medication for a condition that poses a significant risk of death or permanent physical impairment, the Provider must ensure the juvenile receives immediate medical attention. The Provider will notify the Department's regional R.N. by phone as soon as possible. (3-20-20)

321. USE OF MEDICATIONS.

The Provider must have written policies and procedures governing the use and administration of medication to juvenile offenders that conform to all applicable laws and regulations including, but not limited to, those of the

Idaho Department of Health and Welfare or the applicable state's licensing authority. (3-20-20)

01. Medication Management Upon Arrival. If the juvenile offender is taking medication, the Provider must schedule an initial medication management appointment for the juvenile offender within five (5) business days of arrival into the program. (3-20-20)

02. Notification. If initiating or modifying any medication, the Department's regional R.N. must be notified of the following: (3-20-20)

a. The name of the prescribed medication; (3-20-20)

b. The name and phone number of the prescribing doctor, nurse practitioner, or physician's assistant; and (3-20-20)

c. The reason the medication is being prescribed. (3-20-20)

322. – 999. (RESERVED)

IDAPA 11
Title 11, Chapter 01
Idaho State Police

11.11.01 – Rules of the Idaho Peace Officer
Standards and Training Council (**AMENDED**)

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IDAPA 11
Title 11, Chapter 01
Idaho State Police

11.11.01 – Rules of the Idaho Peace Officer
Standards and Training Council

000. LEGAL AUTHORITY.

Pursuant to Section 19-5107, Idaho Code, the Peace Officer Standards and Training Council has authority, in accordance with Title 67, Chapter 52, Idaho Code, to promulgate rules it deems necessary to carry out the provisions of Title 19, Chapter 51, Idaho Code. (3-20-20)T

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council,” IDAPA 11, Title 11, Chapter 01. (3-20-20)T

02. Scope. These rules constitute the minimum standards of training, education, employment, and certification for any discipline certified by the POST Council. (3-20-20)T

002. APPLICATIONS AND FORMS .

All persons seeking certification or endorsement by POST under these rules must complete all relevant POST approved forms, which shall be signed by the applicant’s agency head or designee (on file at POST) prior to submission to POST. (3-20-20)

003. DOCUMENTATION – COPIES.

01. Citizenship, Education, Military and Criminal Records. All documentation of citizenship, educational records and transcripts, military service, and criminal records required by these rules shall be submitted to POST in the form of a copy of a certified original document. (3-20-20)T

02. Training and Other Records. Training records and other records required or allowed to be submitted to POST by these rules shall be submitted in the form of an original or certified copy. Where neither an original or certified copy is available, records shall be legible and not mutilated, altered or damaged. (3-20-20)T

03. Notice of Employment/Termination. The names of all officers hired must be submitted to the Council within fifteen (15) days of employment. The termination of an officer's employment must also be relayed to the Council within fifteen (15) days of such action on an appropriate form designated by the Council. (3-20-20)T

004. – 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions under 19-5101, Idaho Code, the following terms apply: (3-20-20)T

01. Act. Title 19, Chapter 51, of the Idaho Code. (3-20-20)T

02. Adult Felony Probation and Parole Officer. An employee of the Idaho Department of Correction who is responsible for supervision of adult offenders on felony probation or parole. (3-20-20)T

03. Adult Misdemeanor Probation Officer. An employee of a county misdemeanor probation department or contractor of a county who is responsible for preparing reports to the court, making recommendations regarding conditions of probation, and the supervision of misdemeanor offenders' compliance with court orders. (3-20-20)T

04. Agency. A law enforcement agency which is a part of or administered by the state of Idaho or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; an adult misdemeanor probation department, a Public-Safety Answering Point (PSAP); the Idaho Department of Juvenile Corrections; the Idaho Department of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the a private correctional facility. (3-20-20)T

05. Agency Head. A chief of police of a city, sheriff of a county or chief administrator of a law enforcement agency, as defined herein. (3-20-20)T

06. Applicant. A person applying to participate in a POST training program or applying for POST certification. (3-20-20)T

07. Basic Training Academy. A basic course of Council approved instruction in a discipline certified by POST. (3-20-20)T

08. Canine Team. A specific person and a specific dog controlled by that person as its handler, formally assigned to perform law enforcement duties together. (3-20-20)T

09. Canine Team Evaluator. An officer trained and certified by POST to evaluate the competence of canine teams. (3-20-20)T

10. Challenge Examination. A test to aid POST in determining whether an officer has sufficient competence that a waiver of completion of a basic training academy for that officer is warranted. (3-20-20)T

11. College Credit. A unit of work toward an academic or vocational degree awarded by a college or university accredited by one of the accrediting agencies listed in Subsection 11.11.01.053.01.d. or other POST accepted U.S. regional accrediting agency. (3-20-20)T

12. Conviction. Any conviction in any federal, tribal, state, county, or municipal court; a voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; the payment of a fine or civil penalty; a plea of guilty or nolo contendere; or a finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred, or withheld, or whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed or reduced, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, or expungement of the record is based upon lenity or rehabilitation rather than upon a defect in the legality or factual basis of the plea, finding of guilt, or conviction. "Conviction" does not include a misdemeanor conviction upon a bond forfeiture for a violation that is or would at the time have in Idaho been an infraction violation, if the only reason it is classified as a misdemeanor is due to the bond forfeiture. (3-20-20)T

13. Correction Officer. An employee of the Idaho Department of Correction or a private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security,

protection, and risk reduction of offenders housed in a correction facility.
(3-20-20)T

14. Council. The Idaho Peace Officer Standards and Training Council.
(3-20-20)T

15. County Detention Officer. An employee of a county sheriff who works in a county jail and is responsible for the safety, care, protection, and monitoring of county jail inmates.
(3-20-20)T

16. Crime of Deceit. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18- 2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18- 2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18- 2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18- 2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18- 3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery and Counterfeiting),

Sections 18-4616 (Defacing Marks on Logs or Lumber), 18- 4617 (Stealing Rides on Trains), 18- 4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18- 4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49- 231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (3-20-20)T

17. Division Administrator. The administrator of the Idaho Peace Officers Standards and Training Division of the Idaho State Police. (3-20-20)T

18. Emergency Communications Officer. Any emergency call taker or dispatcher employed by a Public Safety Answering Point (PSAP), whose responsibilities include receiving or dispatching 9-1-1 calls. (3-20-20)T

19. Field Training. Formal, on the job training for special and defined purposes. (3-20-20)T

20. Full Time. An employee who is, for a calendar month, employed on average at least thirty (30) hours of service per week, or one hundred thirty (130) hours of service per month. (3-20-20)T

21. Hearing Board. A board of three members designated by

the Chair of the Council to hear contested cases and enter recommended orders for the Council's decision. (3-20-20)T

22. Hearing Officer. A person designated by the Council to preside over decertification proceedings and to render findings of fact, conclusions of law and a recommended order at the conclusion of those proceedings. (3-20-20)T

23. In-Service Training. Training designed to refresh or enhance a certified officer's ability to perform their duties. (3-20-20)T

24. Juvenile Corrections Direct Care Staff. An employee of the Idaho Department of Juvenile Corrections whose primary job duties include the safety, care, education, protection, or supervision of juveniles committed to the custody of the department. Direct care staff positions include: Rehabilitation Technician Trainee; Rehabilitation Technician; Rehabilitation Supervisor; Rehabilitation Specialist; Rehabilitation Specialist Associate; Instructor – DJC; Instructor Specialist; Instructor Assistant; Safety and Security Officer; Recreation Coordinator, Corrections; and Safety and Security Supervisor. (3-20-20)T

25. Juvenile Detention Center. A facility that is part of or administered by an Idaho county and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (3-20-20)T

26. Juvenile Detention Officer. An employee working in a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders. (3-20-20)T

27. Juvenile Probation Department. A public or private agency administered by or contracted with the court, and providing juvenile probation services to a county at the concurrence and expense of the county commissioners. (3-20-20)T

28. Juvenile Probation Officer. An employee of a juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (3-20-20)T

29. Law Enforcement Certification Program. A program operated by a college or university, law enforcement agency, or private entity and satisfying POST basic training academy requirements. (3-20-20)T

30. Law Enforcement Certification Program Facility. A facility at which law enforcement certification programs conduct training. (3-20-20)T

31. Law Enforcement Profession. As used in these rules in reference to agreements authorized pursuant to Section 19-5112, Idaho Code, the “law enforcement profession” includes the following positions: Peace Officer, County Detention Officer, Emergency Communications Officer, Juvenile Detention Officer, Juvenile Probation Officer, Correction Officer, Juvenile Corrections Direct Care Staff, Adult Felony Probation and Parole Officer, Idaho Department of Juvenile Corrections Direct Care Staff, and Adult Misdemeanor Probation Officer. (3-20-20)T

32. Marine Deputy. A person employed by a county sheriff whose primary function is to perform marine-related enforcement duties within established policies and procedures. (3-20-20)T

33. Misdemeanor Probation Department. A public or private agency administered by or contracted with the county, and providing misdemeanor probation services to a county at the concurrence and expense of the county commissioners. (3-20-20)T

34. Part-Time Employee. An employee, regardless of discipline, who works less than thirty (30) hours per week or one hundred thirty (130) hours per month. (3-20-20)T

35. Peace Officer. A full or part-time patrol officer employed by an agency whose duties primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. “Peace officer” also means a patrol or reserve officer employed by a police or law enforcement agency of a federally recognized Indian tribe who has completed a POST basic training academy and has been deputized by a sheriff of a county or a chief of police of a city in Idaho. (3-20-20)T

- 36. POST.** The Idaho Peace Officer Standards and Training Program. (3-20-20)T
- 37. POST Certified Instructor.** A person certified by POST as qualified to instruct or assess students in a course of instruction which meets POST standards for certification or training. (3-20-20)T
- 38. Program Coordinator.** A person designated by a college, university, or agency to be responsible for a law enforcement certification program. (3-20-20)T
- 39. Prosecutor.** A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. (3-20-20)T
- 40. Public Safety Answering Point (PSAP).** A city, county, or state emergency call center that receives direct or transferred 9-1-1 calls for police, firefighting, and ambulances. (3-20-20)T
- 41. Regional Training Specialist.** A POST employee who is assigned to a specific region of the state, and who assesses training materials and instruction for law enforcement personnel to assure compliance with POST standards. (3-20-20)T
- 42. Reserve Peace Officer.** A person appointed by an agency to perform the duties of a peace officer on a limited basis. (3-20-20)T
- 43. School.** A school, college, university, academy, or local training program which offers law enforcement training and which is certified by the Council. (3-20-20)T
- 44. State.** Unless otherwise indicated, the state of Idaho. (3-20-20)T
- 45. Student.** A person participating in any Council-approved basic training program or law enforcement certification training program. (3-20-20)T
- 46. Temporary/Seasonal.** Employment of less than one hundred eighty (180) consecutive days. (3-20-20)T

47. Trainee. A POST certified officer participating in in-service training. (3-20-20)T

011. – 029. (RESERVED)

030. POST COUNCIL.

01. Council Members. The Council will be made up of such members as designated by statute. (3-20-20)T

02. Compensation. Council members will not be compensated for services to POST, but will be allowed actual and necessary expenses incurred in performing their duties. (3-20-20)T

03. Resignations. A Council member who ceases to qualify as such or intends to resign from the Council needs to notify the Governor and Chair in writing as soon as practicable. (3-20-20)T

031. POWERS AND DUTIES OF POST COUNCIL.

The duties of the Council include, but are not limited to, the following: (3-20-20)T

01. Certification. Authorizing POST to issue certification to members of the law enforcement profession as defined in these rules and issue certifications, approvals or endorsements to instructors, schools and programs providing instruction to law enforcement personnel. (3-20-20)T

02. Records. Maintaining records on all certified officers, certified or endorsed instructors and approved law enforcement certification programs, and furnish records upon request in accordance with the Idaho Public Records Act. (3-20-20)T

03. Committees. Establishing such committees as may be necessary to more fully carry out the duties of the Council. (3-20-20)T

04. Vice-Chairman. Electing a Vice-Chairman annually from among the Council's membership. (3-20-20)T

05. Rules. Adopting rules and procedures for the internal management of POST and the operation of law enforcement certification programs. (3-20-20)T

06. Assist, Study, Consult and Cooperate. Assisting departments and law enforcement certification training programs in complying with POST requirements, studying law enforcement training methods, consulting and cooperating with agencies and educational institutions concerned with law enforcement training. (3-20-20)T

07. Additional Time to Complete POST Training and Certification. Granting or delegating to the Division Administrator the authority to grant additional time, upon a showing of good cause and in writing, to complete POST training and certification. Good cause includes, but is not limited to, sickness or physical disability of officer or immediate family member, cancellation of a basic academy, natural disaster, or reapplication to the academy after failing or being unable to complete a previous basic academy. (3-20-20)T

08. Reimbursement of Instructors. Reimbursing instructors at POST certified training programs for travel, food and lodging at state per diem rates. (3-20-20)T

032. POST HEARING BOARD.

The Council may appoint a Hearing Board to hear matters assigned to the Board by the Council. (3-20-20)T

01. Members. The Council Chair will appoint three (3) members of the Council to serve on the Hearing Board. (3-20-20)T

02. Recommended and Final Orders. Orders issued by the Hearing Board at the conclusion of proceedings are recommended orders and become final orders after the Council's review. (3-20-20)T

03. Discovery. Discovery may be conducted in contested cases before a Hearing Officer and the Council. (3-20-20)T

033. POST DIVISION ADMINISTRATOR.

The Idaho State Police will employ a POST Division Administrator in a non-classified position, to serve under the direction of the Council. (3-20-20)T

01. Selection. The Director of the Idaho State Police will, subject to approval of the Council, select the Division Administrator from the register established by the Idaho Division of Human Resources after competitive testing. The Council Chair will select one (1) Chief or Sheriff

from the Council to serve on the examining board. (3-20-20)T

02. Responsibilities. The Division Administrator will: (3-20-20)T

a. Supervise POST employees; (3-20-20)T

b. Report to the Council on such matters as the Council may direct; and (3-20-20)T

c. Perform such other duties as set forth in these rules or as the Council and the Director of the Idaho State Police direct. (3-20-20)T

03. Administration. For administrative purposes, the Division Administrator and POST staff are governed by the Policies and Rules of the Idaho State Police, concerning but not limited to fiscal, purchasing, and personnel matters. (3-20-20)T

034. – 049. (RESERVED)

050. BASIC CERTIFICATION OF LAW ENFORCEMENT OFFICERS.

All applicants for POST certification must meet the following standards and comply with the following requirements to be eligible to attend a basic training academy and for certification and employment in Idaho in any law enforcement discipline. (3-20-20)T

051. MANDATORY AND VOLUNTARY CERTIFICATION.

01. Mandatory Certification. Except as otherwise provided in these rules, no person shall act as a peace officer, marine deputy, county detention officer, emergency communications officer, juvenile detention officer, juvenile probation officer, correctional officer, adult probation and parole officer, juvenile direct care staff or misdemeanor probation officer in Idaho unless they are certified to do so by POST in accordance with these rules. (3-20-20)T

02. Voluntary Certification for Correctional Officers and Adult Probation and Parole Officers Employed Prior to July 1, 2005. Correctional officers and adult probation and parole officers who were employed prior to July 1, 2005 are not required to be POST certified in

those disciplines, but may become certified by meeting all requirements for certification set forth in these rules. (3-20-20)T

03. Voluntary Certification for Emergency Communications Officers Employed Prior to July 1, 2012. Emergency Communications Officers who were employed prior to July 1, 2012 are not required to be POST certified, but may become certified by meeting all requirements for certification set forth in these rules. (3-20-20)T

04. Voluntary Certification for Certain Officials. The director of the Idaho State Police or any elected official, although specifically excluded by law from meeting the requirements set by the Council, may be certified if they so desire, provided they meet the minimum requirements for certification as prescribed in these rules. (3-20-20)T

052. CITIZENSHIP.

An applicant shall be a citizen of the United States and submit a certified copy or original of one (1) of the following as verification of citizenship: (3-20-20)T

01. Birth Certificate. A birth certificate issued by a city, county, or state; (3-20-20)T

02. Passport. A current passport issued by the United States Government; (3-20-20)T

03. Naturalization Certificate; (3-20-20)T

04. Consular Report of Birth Abroad or Certification of Birth; or (3-20-20)T

05. Certificate of Citizenship. (3-20-20)T

053. EDUCATION.

01. Acceptable Education. An applicant must have: (3-20-20)T

a. Graduated from a school accredited as a high school at the time of graduation by the state in which it is located or by a recognized regional accreditation body; (3-20-20)T

b. Passed a GED or an IBM Assessment Test in subject areas required by POST; (3-20-20)T

c. Have completed a high school equivalency program and obtained a state- issued certificate; (3-20-20)T

d. Completed a minimum of fifteen (15) credits at a college accredited by one of the following: Middle States Association of Schools and Colleges; New England Association of Schools and Colleges; North Central Association of Colleges and Schools (the Higher Learning Commission); Northwest Association of Colleges and Universities; Southern Association of Colleges and Schools; and Western Association of Schools and Colleges; or (3-20-20)T

e. Completed a course of study, either in a formal school setting or through homeschooling if the program is recognized by a state or by a local school district within a state as having met that state's high school graduation requirements. (3-20-20)T

f. If educated outside the United States, an applicant must have passed GED testing or provide an evaluation from a member of the National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators, Inc. (AICE), showing the applicant's education meets or exceeds the U.S. requirements for high school graduation. (3-20-20)T

02. Documentation of Education. An applicant must provide a certified copy or original of one of the following: (3-20-20)T

a. High school diploma indicating date of graduation; (3-20-20)T

b. Official high school transcript indicating date of graduation; (3-20-20)T

c. Official transcript of GED results indicating a passing score; (3-20-20)T

d. Correspondence from the Idaho Department of Labor, providing a passing score result of testing; (3-20-20)T

e. Correspondence from a state or local school district

indicating that the applicant has met that state's high school graduation requirements; (3-20-20)T

f. State-issued high school equivalency certificate; (3-20-20)T

g. Official transcript from a POST accepted U.S. regionally-accredited college indicating completion of a minimum of fifteen (15) credits; (3-20-20)T

h. Official evaluation of foreign education by a member of the National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators, Inc. (AICE) showing the applicant's education meets or exceeds the U.S. requirements for high school graduation. (3-20-20)T

054. AGE.

The minimum age requirements for employment in the following disciplines are: (3-20-20)T

01. Twenty-One (21) Years of Age. Patrol officers, felony probation and parole officers, misdemeanor probation officers, juvenile detention officers, juvenile probation officers, and juvenile corrections direct care staff. (3-20-20)T

02. Eighteen (18) Years of Age. Corrections officers, adult detention officers, emergency communications officers. (3-20-20)T

055. INELIGIBILITY BASED UPON PAST CONDUCT.

An applicant is ineligible to attend a basic training academy and for certification under the following circumstances. (3-20-20)T

01. Criminal Conviction. An applicant is ineligible if he was convicted of: (3-20-20)T

a. A felony, if the applicant was eighteen (18) years old or older at the time of conviction; (3-20-20)T

b. A misdemeanor Driving Under the Influence offense(s) within two (2) years immediately preceding application, or two or more (2) misdemeanor Driving Under the Influence offenses within five (5) years immediately preceding application; (3-20-20)T

c. A misdemeanor crime involving domestic violence, if the relevant law enforcement discipline requires the applicant to possess a firearm in the course of their duty, or if the conviction occurred within 5 years immediately preceding application; (3-20-20)T

d. A misdemeanor crime of deceit, as defined in these rules, or a misdemeanor sex offense, if the conviction occurred within five (5) years immediately preceding application; (3-20-20)T

e. A misdemeanor drug-related offense, if the conviction occurred within one (1) year immediately preceding application. (3-20-20)T

02. Driver's License. An applicant is ineligible if he does not possess a valid driving license from the applicant's state of residence and is unable to qualify for an Idaho driver's license, except for the following disciplines: (3-20-20)T

a. Correction Officers; (3-20-20)T

b. Emergency Communications Officers. (3-20-20)T

03. Marijuana. An applicant is ineligible if he used marijuana, cannabis, hashish, hash oil, or THC in synthetic and natural forms, whether charged or not, if such use occurred: (3-20-20)T

a. Within one (1) year immediately preceding application; (3-20-20)T

b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the use occurred. (3-20-20)T

04. Violations of Idaho Controlled Substances Act. An applicant is ineligible if he, while eighteen (18) years old or older, violated any provision of the Idaho Uniform Controlled Substances Act, Section 37-2701 et seq., Idaho Code, whether charged or not, that constitutes a felony, or of a comparable statute of another state or country, if the violation occurred: (3-20-20)T

a. Within three (3) years immediately preceding application; (3-20-20)T

b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the illegal use occurred. (3-20-20)T

05. Use of Prescription or Other Legally Obtainable Controlled Substance. An applicant is ineligible if he unlawfully used any prescription drug or a legally obtainable controlled substance within the past three (3) years, unless: (3-20-20)T

a. The applicant was under the age of eighteen (18) at the time of using the controlled substance; or (3-20-20)T

b. An immediate, pressing, or emergency medical circumstance existed to justify the use of a prescription controlled substance not specifically prescribed to the person. (3-20-20)T

06. Military Discharge. An applicant is ineligible if he received a “dismissal,” “bad conduct discharge” (BCD), “dishonorable discharge” (DD), or administrative discharge of other than honorable (OTH) from military service. (3-20-20)T

07. Decertification or Denial of Certification. An applicant is ineligible if he has been denied certification or his basic certificate has been revoked by the Council in this state or the responsible licensing agency in any other issuing jurisdiction, unless the denial or revocation has been rescinded by the Council or by the responsible licensing agency of the issuing jurisdiction. (3-20-20)T

056. DOCUMENTATION OF CRIMINAL, TRAFFIC, AND MILITARY DISCHARGE RECORDS.

With a POST application, an applicant shall submit the following to verify criminal, traffic or military records. (3-20-20)T

01. Criminal or Traffic Matters. Charging documents, including citations, complaints, information or indictments; judgements of convictions, orders of restitution; orders involving probation, parole, or revocation of probation or parole; orders of dismissal or release; records of payments to the court. (3-20-20)T

02. Military Discharge. Copies of a DD214 for active military service, NGB Form 22 for National Guard Service, or Official

Military Discharge Documentation for Reserve military service.

(3-20-20)T

057. REQUIREMENTS FOR BASIC CERTIFICATION.

In addition to complying with the foregoing standards, each applicant for certification must also comply with the following requirements.

(3-20-20)T

01. Agency Employment. Each applicant must be an employee of an agency, as defined in these rules, in a position requiring POST certification, or be a member of POST professional staff.

(3-20-20)T

02. Background Investigation. The employing agency must conduct a comprehensive background investigation of each applicant to ensure that he meets requirements for POST certification and employment in the law enforcement profession.

(3-20-20)T

a. The applicant must complete a comprehensive application and personal history statement prior to a background investigation in aid of determining he is eligible for certification.

(3-20-20)T

b. The applicant must be fingerprinted on a standard FBI Applicant fingerprint card and a search of local, state, and national fingerprint data bases must be made to disclose any criminal record. The employing agency must retain originals of all records check results.

(3-20-20)T

c. The employing agency must investigate the applicant's traffic records in each state in which he resided.

(3-20-20)T

d. The background investigation must include information from personal references, schools, the applicant's last three (3) previous employers, and law enforcement agency or PSAP records in jurisdictions where the applicant has lived or worked.

(3-20-20)T

e. The employing agency must interview each applicant to ascertain his suitability for the law enforcement profession. Interview topics must include use of intoxicants, controlled substances, physical, mental, and emotional history, family problems, moral outlook and habits, and the applicant's financial history.

(3-20-20)T

f. An experienced investigator must conduct a thorough investigation into the applicant's reputation, integrity, honesty, dependability, qualifications, experience, associations, emotional stability, and respect for the law. (3-20-20)T

03. Physical Readiness Assessment. The employing agency shall require an assessment of an applicant's physical readiness to ensure he can perform physically demanding tasks and tests while attending a basic training academy or equivalent program. An applicant who fails a required physical test during an academy may be dismissed, but may attend a future academy and must pass a physical readiness test prior to certification. (3-20-20)T

04. Mental Readiness Assessment. Where there is a question as to whether the applicant may be subject to a mental or emotional disorder that calls his suitability for the law enforcement profession into question, the employing agency shall have a psychiatrist or clinical psychologist conduct a thorough evaluation to ensure he is capable of performing law enforcement duties. (3-20-20)T

05. Application. Each applicant must fill out a POST Application and submit it to the employing agency, which shall submit it to POST with all required documentation. (3-20-20)T

a. Upon review of an application, POST may inspect an agency's background investigation file to ensure it is accurate and complete. If a review indicates that information submitted to POST may be inaccurate, incomplete or falsified, the Division Administrator must inspect the agency's background investigation file. (3-20-20)T

b. If the application contains inaccuracies or omissions, the Division Administrator may require the agency to supplement the application, and may approve the application. (3-20-20)T

c. If the application contains evident falsifications, the Division Administrator shall reject the application. (3-20-20)T

06. Aptitude Test. An applicant shall complete an aptitude test to ensure he is capable of performing law enforcement duties. (3-20-20)T

07. Code of Ethics/Standards of Conduct. Each applicant

shall attest that he will abide by the following Law Enforcement Code of Ethics, and that he understands violations thereof constitute grounds for decertification:

“As a member of the law enforcement profession, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice. I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret, unless revelation is necessary in the performance of my duty. I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and the relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. I recognize the badge or position of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of law enforcement/public service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other law enforcement or emergency communications officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God or have a sincere and unfaltering commitment to my chosen profession...law enforcement.” (3-20-20)T

08. Time for Completing Basic Training Academy or Alternative Training, Field Training and Probationary Period.

(3-20-20)T

a. Except as otherwise provided in these rules, every person attending a basic training academy must complete that academy, a minimum of 40 hours of field training and six consecutive months of probation in that discipline with that hiring agency within twelve months of beginning employment in order to be certified. (3-20-20)T

b. Emergency communications officers attending a basic training academy must complete that academy, and six consecutive months of probation in that discipline with that hiring agency within eighteen (18) months of beginning employment in order to be certified. (3-20-20)T

c. Any person who does not become certified in the relevant discipline within three (3) years of graduating from a basic training academy or POST certified equivalent program must repeat that entire academy or program in order to become certified. (3-20-20)T

d. Every person seeking certification through the POST challenge process must complete that process within one year of beginning employment with an agency. (3-20-20)T

058. STANDARDS OF CONDUCT FOR BASIC TRAINING ACADEMY STUDENTS.

01. Required Behavior. All students shall conduct themselves in a manner which will bring credit to the law enforcement profession. Student behavior must reflect courtesy, consideration and respect for others. (3-20-20)T

02. Prohibited Conduct. Any conduct detrimental to the efficiency or discipline of the academy, whether or not stated in the instructions, is prohibited and can be cause for disciplinary action or expulsion. A student's agency head will be informed of any such infraction. (3-20-20)T

03. Notice. POST shall inform students of requirements relating to residency, equipment, supplies, and conduct at the academy at the time of their acceptance into an academy. (3-20-20)T

059. CHALLENGING A BASIC TRAINING ACADEMY.

An applicant for POST certification may challenge the basic training

academy in the relevant discipline under the following circumstances, and subject to the following conditions. (3-20-20)T

01. Requirements for Challenging a Basic Training Academy. Except as otherwise provided by these rules, an applicant challenging a basic training academy must: (3-20-20)T

a. Be employed by an agency in Idaho; (3-20-20)T

b. Have been employed, and if applicable, have been certified or commissioned by another state or the federal government as an officer in the relevant discipline within the last five (5) years, or a student who has satisfactorily completed a basic training academy equivalent to the POST basic training academy in the relevant discipline within the last three (3) years; (3-20-20)T

c. Submit a POST certification challenge packet, including copies of all relevant service, educational and training records; (3-20-20)T

d. Disclose all information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction; (3-20-20)T

e. Complete a probationary period of at least six (6) consecutive months with the employing agency in the relevant discipline; (3-20-20)T

f. Comply with any additional provisions required by POST for a challenge in a specific discipline; and (3-20-20)T

g. Reserve Officers must have been employed, certified, or commissioned by another state or the federal government as an officer in the relevant discipline within the last three (3) years. (3-20-20)T

02. Patrol and Detention Law Enforcement Certification Program or POST Academy Graduates. An applicant who is appointed to either a peace officer or a detention officer position from 3 to 5 years after completing both the patrol and detention officer training through a POST approved law enforcement certification program or POST basic training academy, will be eligible for certification in the other discipline without attending an additional basic training academy, provided the officer: (3-20-20)T

a. Was appointed to a peace officer or detention officer position in Idaho within three (3) years from graduating from a law enforcement certification program or a POST Academy; (3-20-20)T

b. Possesses a detention or peace officer certification from POST; (3-20-20)T

c. Submits a POST challenge packet; (3-20-20)T

d. Discloses information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction; (3-20-20)T

e. Completes a probationary period of at least six (6) consecutive months with the employing agency in the relevant discipline; and (3-20-20)T

f. Complies with any additional provisions required by POST for a challenge in a specific discipline. (3-20-20)T

060. AGREEMENT TO SERVE – REIMBURSEMENT REQUIREMENT.

01. Agreement. Pursuant to Section 19-5112, Idaho Code, any student attending a POST funded basic training academy must execute an agreement promising to remain within the law enforcement profession in Idaho for two (2) years immediately following graduation. Violation of the agreement will give rise to a civil action which may be commenced by the Council on behalf of the state for restitution of all costs of education paid by the Council plus costs and reasonable attorney's fees. (3-20-20)T

02. Fulfillment of Agreement. The agreement will be fulfilled if, following graduation from a basic training academy, the student remains in the law enforcement profession in Idaho, as follows: (3-20-20)T

a. On a full-time basis, for two (2) full calendar years immediately following graduation date; or (3-20-20)T

b. On a part-time basis, and the officer provides the Council with documentation of four thousand one hundred sixty (4,160) hours of service immediately following graduation date. (3-20-20)T

03. Relief from Obligation to Serve. A student is relieved of his obligations under the agreement if the student is: (3-20-20)T

a. Terminated by the employing agency due to budget cutbacks or loss of funding and the agency provides POST with a letter stating the student was terminated due to the agency's lack of funding; (3-20-20)T

b. Forced to resign due to his own or an immediate family member's terminal illness or prolonged debilitating condition and the student provides POST with documentation from an attending physician verifying the medical condition; (3-20-20)T

c. Ordered into full-time active military service, and the student provides POST with documentation of official military orders; or (3-20-20)T

d. The spouse of a person who is a member of the military and is being required to transfer outside Idaho for a prolonged period of time, and the student provides POST with documentation of the spouse's official military orders. (3-20-20)T

04. Reimbursement. A student who graduates from a basic training academy whose employment is terminated or resigns prior to fulfillment of the agreement or does not qualify for disqualification must reimburse the state for educational training expenses. (3-20-20)T

05. Proration. A student's reimbursement obligation under the agreement will be prorated if he remains in the law enforcement profession in Idaho following graduation from a basic training academy for the following time periods: (3-20-20)T

a. On a full-time basis for less than twelve (12) complete months following graduation. The full amount of money set forth in the agreement shall be owed; (3-20-20)T

b. On a full-time basis for a minimum of twelve (12) complete months following graduation but less than twenty-four (24) complete months. The amount owed to the Council will be reduced proportionately for each complete month worked from the date of graduation to the date of separation; or (3-20-20)T

c. On a part-time basis for a documented minimum of two thousand eighty (2,080) hours service following graduation, but less than four thousand one hundred sixty (4,160) hours. The amount owed to the Council will be reduced proportionately for each one hundred seventy-three (173) hours worked from the date of graduation to the date of separation. (3-20-20)T

06. Multiple Basic Training Academies. A student who graduates from more than one (1) basic training academy must fulfill a two-year agreement for each academy attended. (3-20-20)T

07. Decertification. A student who is decertified by POST prior to a period of two (2) years after graduating from an academy shall not be relieved of the obligation to reimburse POST pursuant to this section. (3-20-20)T

061. – 069. (RESERVED)

070. HIGHER LEVEL CERTIFICATION.

In addition to basic certification, the Council may issue higher-level certifications in recognition of additional training and experience to full-time officers already possessing a basic POST certification. (3-20-20)T

01. Types of Higher-Level Certification. In addition to basic certification, the Council may issue the following: (3-20-20)T

a. Intermediate certification for peace officers, detention officers, juvenile probation officers, juvenile detention officers and emergency communications officers; (3-20-20)T

b. Advanced certification for peace officers, detention officers and emergency communications officers; (3-20-20)T

c. Supervisor certification for peace officers, detention officers and emergency communications officers; (3-20-20)T

d. Master certification for peace officers, detention officers and emergency communications officers; (3-20-20)T

e. Management certification for peace officers, detention officers and emergency communications officers; (3-20-20)T

- f. Executive certification for peace officers. (3-20-20)T

02. Requirements. In addition to the requirements otherwise set forth in these rules, the following are required for higher level certification: (3-20-20)T

a. An applicant shall possess POST basic certification in the relevant discipline and be a full-time employee of an agency. (3-20-20)T

b. An applicant shall attach to his POST application all relevant transcripts, certificates, diplomas, degrees, course outlines, or other documents not listed on the applicant's POST training record, verifying his education and training. (3-20-20)T

c. The agency of an applicant for a Supervisor, Management, or Executive certification must submit a job description or other documentation verifying the applicant's duties. (3-20-20)T

071. LAW ENFORCEMENT EXPERIENCE, MILITARY EXPERIENCE, AND COLLEGE CREDITS FOR PURPOSES OF HIGHER CERTIFICATION.

For purposes of determining whether a person is eligible for higher level certifications based upon experience and education, the following apply. (3-20-20)T

01. Law Enforcement Experience. Law enforcement experience shall include actual time served with a law enforcement agency as a peace officer or county detention officer. POST Council determines the acceptability of time served in one of those positions in a jurisdiction other than Idaho, or one which does not comply with the minimum standards set forth in these rules. (3-20-20)T

02. Juvenile Justice Experience. Juvenile justice experience means actual time served as a full-time juvenile corrections, juvenile detention, or juvenile probation officer. (3-20-20)T

03. Emergency Communications Officer Experience. Emergency communications officer experience means actual time served as a full-time emergency communications officer with a duly constituted law enforcement or PSAP agency. (3-20-20)T

04. Military Law Enforcement Service and Education. An applicant who has served in the military as a full-time military law

enforcement officer may be awarded partial credit toward law enforcement experience and training. The applicant shall have served as a full-time military law enforcement officer for the period of time for which credit is requested. Regular guard duty does not qualify. (3-20-20)T

a. Credit will be awarded as follows: (3-20-20)T

i. One (1) year of accepted military law enforcement service shall equal three (3) months of law enforcement experience. (3-20-20)T

ii. Eight (8) hours of accepted military law enforcement training shall equal four (4) hours of law enforcement training. (3-20-20)T

b. No applicant shall be awarded more than two (2) years of law enforcement experience or more than one thousand (1,000) hours of law enforcement training. (3-20-20)T

c. Educational credit may be awarded for completion of military law enforcement schools. All certificates, course outlines, diplomas, DD-214's, and certificates of completion showing length of school shall be submitted to POST with the application for higher certification. (3-20-20)T

05. College Credits. POST may award credits for college education as follows: (3-20-20)T

a. One (1) college or university semester hour or unit shall equal one (1) college credit. (3-20-20)T

b. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. (3-20-20)T

c. College credits may be converted to POST training hours at the rate of twenty (20) POST training hours for one (1) college credit.

(3-20-20)T

d. When college credit is awarded or purchased for POST approved training, it may be counted for either POST training hours or college credit, whichever is to the advantage of the applicant. (3-20-20)T

e. Applicants shall submit an official college transcript as verification of college credit. (3-20-20)T

072. INTERMEDIATE AND ADVANCED CERTIFICATION.

POST Intermediate and Advanced certification recognizes the additional training and experience of patrol, detention, emergency communications officers, juvenile probation officers and juvenile detention officers already possessing a basic POST certification. In addition to the requirements otherwise set forth in these Rules, the following are required for an Intermediate or Advanced Certificate. (3-20-20)T

01. Intermediate Certification. An applicant shall hold a current POST basic certification, and have acquired either the combination of college credits and/or POST training hours, combined with the prescribed years of law enforcement experience, or an associate or baccalaureate degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections: (3-20-20)

a. Peace officers.

POST Training Hours Including POST Basic Patrol Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Patrol Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

(3-20-20)T

b. Detention officers.

POST Training Hours Including POST Basic Detention Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

(3-20-20)T

c. Emergency communications officers. The applicant shall:
(3-20-20)T

i. Have completed a minimum of one hundred twenty (120) hours of POST certified training, which must include basic training.
(3-20-20)T

ii. A minimum of three (3) years of emergency communications officer experience.
(3-20-20)T

d. Juvenile detention officers.

POST Training Hours Including POST Basic Juvenile Detention Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

(3-20-20)T

e. Juvenile probation officers.

POST Training Hours Including POST Basic Juvenile Probation Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Probation Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

(3-20-20)T

02. Advanced Certification. An applicant shall hold a current POST basic certification, possess or be eligible to possess an intermediate certificate, and have acquired either the combination of college credits and POST training hours, combined with the prescribed years of law enforcement experience, or an associate, baccalaureate, master's or doctoral degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections:

(3-20-20)T

a. Peace officers.

POST Training Hours Including POST Basic Patrol Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Patrol Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience.

(3-20-20)T

b. Detention officers.

POST Training Hours Including POST Basic Detention Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Detention Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience. (3-20-20)T

c. Emergency communications officers. (3-20-20)T

i. Have completed a minimum of five hundred (500) hours of POST certified training, which must include POST approved basic training. (3-20-20)T

ii. Have at least ten (10) years of communications specialist experience. (3-20-20)T

03. Probationary Period. An applicant shall have completed a probationary period of at least six (6) consecutive months with the employing agency prior to applying for intermediate or advanced certificates. Agencies may require a longer probationary period prior to application. (3-20-20)T

073. SUPERVISOR CERTIFICATION.

POST supervisor certification recognizes the training and experience of patrol, detention and emergency communications officers employed in positions above the operational level who holds the rank of sergeant or equivalent title and who are responsible for the direct supervision of line personnel. In addition to the requirements otherwise set forth in these rules, an applicant for a supervisor certificate must: (3-20-20)T

01. Position. Be employed for a minimum of one (1) year by an agency in a first-line supervision position above the operational level which is responsible for the direct supervision of nonsupervisory personnel. (3-20-20)T

02. Certification. Possess an intermediate or advanced patrol, detention officer or emergency communications officer certificate. (3-20-20)T

03. Training. Have completed one hundred (100) hours of POST certified supervisory-level training, of which fifty (50) hours shall have been completed within three (3) years immediately prior to submitting an application for the supervisor certificate. (3-20-20)T

074. MASTER CERTIFICATION.

POST master certification recognizes the training and experience of patrol, detention and emergency communications officers who hold a rank below sergeant or equivalent title and who have focused their career efforts on line functions. In addition to the requirements otherwise set forth in these Rules, an applicant for a master certificate must: (3-20-20)T

01. Prior Certification. Possess an advanced certificate. (3-20-20)T

02. Training. Have completed one thousand five hundred (1,500) hours of POST certified training. College credits may be converted to POST training hours at the rate of one (1) college credit equals twenty (20) POST training hours. (3-20-20)T

03. Experience. Have completed a minimum of fifteen (15) years of full-time law enforcement service in assignments which did not include full-time supervisory, management, or executive positions. (3-20-20)T

075. MANAGEMENT CERTIFICATION.

POST management certification recognizes the training and experience of patrol, detention and emergency communications officers in positions between a first-line supervisor and an executive, with responsibility for direct supervision of supervisory personnel and/or command duties. POST management certification is also available to city police chiefs or administrators within state agencies having law enforcement powers whose duties are primarily administrative. In addition to the requirements otherwise set forth in these rules, the following are required for an award of a management certificate. (3-20-20)T

01. Position. An applicant must be employed by an agency for a minimum of six (6) months in a management or executive position with primary responsibilities that are administrative or managerial in nature, including direct supervision of supervisory personnel and/or command duties, and which is typically occupied by a person holding the rank of lieutenant or higher, or equivalent title. (3-20-20)T

02. Certification. An applicant must possess POST certification as a peace officer, detention officer, or emergency communications officer; certification from another state that has minimum peace officer standards; or a certificate of completion from a city, county, state, or federal law enforcement academy that meets that state's minimum training standards. (3-20-20)T

03. Training. An applicant must have completed one hundred (100) hours of POST certified management-level training, of which fifty (50) hours shall have been completed within three (3) years immediately prior to submitting an application for the Management Certificate. (3-20-20)T

04. Officers not Certified in Idaho. In addition to the other requirements of this section, officers who are not POST certified must: (3-20-20)T

a. Submit a Patrol Challenge Packet to POST, including copies of POST training records from other states, transcripts, certificates, diplomas, or other documents substantiating the officer's training, education and experience. (3-20-20)T

b. Attend a POST approved course of study in Idaho law and pass the POST Idaho law exam. (3-20-20)T

05. Police Chiefs, Agency Administrators. City police chiefs or administrators within state agencies having law enforcement powers who have duties which are primarily administrative may satisfy the certification requirement of Section 19-5109(2), Idaho Code, by obtaining this certificate. All other city police chiefs or state agency administrators having law enforcement powers may be awarded this certificate upon meeting the requirements, but shall also complete the requirements necessary to obtain a Basic Certificate. (3-20-20)T

076. EXECUTIVE CERTIFICATION.

POST Executive Certification recognizes the training and experience of law enforcement agency heads. In addition to the requirements otherwise set forth in these rules, an applicant for an Executive Certificate must: (3-20-20)T

01. Position. Be employed for a minimum of three (3) years as a chief of police, sheriff, director or chief executive of an agency. (3-20-20)T

02. Prior Certification. Possess a POST Advanced or Management Certificate, or the equivalent from another state meeting or exceeding Idaho standards. (3-20-20)T

03. Training. Have completed one hundred (100) hours of POST certified executive-level training, of which fifty (50) hours shall have been completed within three (3) years immediately prior to application for an Executive Certificate. (3-20-20)T

077. – 079. (RESERVED)

080. CERTIFICATIONS FOR PART-TIME OFFICERS.

In addition to basic POST certification, as set forth in these rules, the Council may issue certifications to the following employees who work under the supervision of full-time, POST certified Officers. (3-20-20)T

01. Requirements. Part-time officers in all disciplines except reserve peace officers, marine deputies and part-time juvenile detention officers will meet the same requirements as full time officers and will be issued a basic certificate. (3-20-20)T

a. Part-time juvenile detention officers who attend the basic juvenile detention academy will receive a basic certificate. Part-time

juvenile detention officers who attend the part-time juvenile detention training will be issued a part-time juvenile detention certificate.

(3-20-20)T

b. Part-time misdemeanor probation officers must work sixty (60) hours per year to maintain certification.

(3-20-20)T

c. Reserve peace officers will be issued a reserve peace officer certification.

(3-20-20)T

d. Marine deputies will be issued a marine deputy certification.

(3-20-20)T

02. Lapse of Certification. All part-time POST certifications shall lapse in the same manner as basic certifications, and as set forth in these rules.

(3-20-20)T

03. Decertification. All-part time officers are subject to decertification in the manner set forth in these rules.

(3-20-20)T

04. Limit and Authority. The certification and authority of part-time officers is not limited except where indicated in these rules.

(3-20-20)T

081. RESERVE PEACE OFFICER CERTIFICATION.

The Council may issue reserve peace officer certification for part-time employees of agencies who are assigned limited duties and work under the supervision of full-time, POST certified peace officers.

(3-20-20)T

01. Eligibility. An applicant for reserve peace officer certification must be a reserve peace officer employed on a part-time basis by an agency and meet minimum standards for employment as provided in these rules.

(3-20-20)T

02. Reserve Officer Training. An applicant for reserve peace officer certification shall complete the POST approved reserve peace officer academy.

(3-20-20)T

03. Peace or Reserve Officers Certified In Another State, Commissioned by the Federal Government, or Graduates of a Basic Police Academy. An applicant who has served as a full-time certified peace officer or reserve officer in another state or as a full-time

commissioned peace officer of the federal government within the three (3) years immediately preceding application or a student who has completed an equivalent to the basic patrol academy within the three (3) years immediately preceding application is eligible for reserve officer certification without attending the reserve officer academy, provided he:
(3-20-20)T

a. Submits, with a reserve officer certification packet, records of certifications and training from other states, and transcripts, certificates, diplomas, or other documents that verify the officer's training and experience;
(3-20-20)T

b. Discloses all information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction;
(3-20-20)T

c. Comply with any additional provisions required by POST.
(3-20-20)T

04. Absence of Three Years. An officer who has not served in law enforcement for over three (3) years must complete all requirements set forth in this section to be eligible for reserve peace officer certification.
(3-20-20)T

05. Supervision. An agency utilizing reserve peace officers shall have a policy regarding the duties and supervision of certified reserve peace officers.
(3-20-20)T

06. Limitation on Certification. A reserve peace officer's certification is effective only while he is formally assigned to peace officer duties by the employing agency.
(3-20-20)T

07. Retaining Certification. A certified reserve peace officer must work a minimum of one hundred twenty (120) hours annually in a peace officer capacity to retain certification. A certified reserve peace officer working less than one hundred twenty (120) hours annually must complete all requirements for initial reserve peace officer certification to be recertified.
(3-20-20)T

082. MARINE DEPUTY CERTIFICATION.

01. Appointment by Sheriff. Marine deputies may be

appointed by the Sheriff of a county for the purpose of enforcing:
(3-20-20)T

a. The provisions of Title 67, Chapter 70, Idaho Code;
(3-20-20)T

b. The provisions of IDAPA 26, Title 01, Chapter 30, Administrative Rules of the Idaho Department of Parks and Recreation;
(3-20-20)T

c. City and county ordinances pertaining to watercraft and waterways; and
(3-20-20)T

d. Enforcement of Idaho Code as assigned by the Sheriff.
(3-20-20)T

02. Minimum Basic Training. A person desiring marine deputy certification shall complete the Council approved core curriculum, comprising basic law enforcement and marine specific courses.
(3-20-20)T

03. Peace Officer Eligibility. A person who, within the three (3) years immediately preceding application, has served as a full-time POST certified peace officer shall be eligible for POST marine deputy certification without completing the core curriculum, provided he completes required marine specific courses and passes the marine deputy certification examination.
(3-20-20)T

04. Certified or Commissioned in Another Jurisdiction; Graduate of Basic Police Academy. A person who has, within the three (3) years immediately preceding application, served as a full-time certified peace officer in another state, or served as a full-time commissioned peace officer for the federal government, or completed a basic police academy equivalent to the POST basic patrol academy may be eligible for POST marine deputy certification, provided he passes the POST marine deputy certification examination and meets all additional POST requirements for marine deputy certification.
(3-20-20)T

05. Absence of Three Years. A person who has not served as a marine deputy or as a peace officer for over three (3) years must complete the POST core curriculum to be eligible for marine deputy certification.
(3-20-20)T

083. PART-TIME JUVENILE DETENTION OFFICER CERTIFICATION.

A part-time juvenile detention officer must be certified by the Council within one (1) year of the date he was first employed as a part-time juvenile detention officer. (3-20-20)T

01. Eligibility. An applicant shall: (3-20-20)T

a. Meet the definition of part-time juvenile detention officer as defined in these rules. (3-20-20)T

b. Meet the minimum standards for certification provided in these rules. (3-20-20)T

c. Must have been employed by the agency for a minimum six (6) consecutive months, which may include part-time juvenile detention officer training time, prior to certification. (3-20-20)T

02. Requirements for Certification. An applicant must: (3-20-20)T

a. Complete POST approved part-time juvenile detention officer training. (3-20-20)T

b. Complete POST approved part-time juvenile detention officer field-training of no less than forty (40) hours. (3-20-20)T

c. Comply with any additional provisions required by POST. (3-20-20)T

03. Retaining Certification. A certified part-time juvenile detention officer must work sixty (60) hours annually in a juvenile detention officer capacity to retain certification. Documentation of hours worked must be kept on file at the appointing agency. A part-time juvenile detention officer working less than sixty (60) hours annually must complete all requirements for certification set forth in this section to be recertified. (3-20-20)T

04. Limitations on Certification and Authority. (3-20-20)T

a. A part-time juvenile detention officer's certification is effective only during those periods when he is formally assigned by the

employing agency to perform the duties of a certified part-time juvenile detention officer. (3-20-20)T

b. All certified part-time juvenile detention officers shall be directly supervised by a POST certified full-time juvenile detention officer, and each agency shall have a policy regarding supervision of part-time juvenile detention officers. (3-20-20)T

084. – 089. (RESERVED)

090. CANINE-RELATED CERTIFICATIONS.

Canine related certificates ensure the competence of law enforcement canine teams and evaluators. These rules do not limit the use of canine teams employed by other states or federal agencies for law enforcement purposes, or the use of volunteer canine teams in which the handler is not an Idaho peace, detention, correction, or adult probation and parole officer. (3-20-20)T

091. CANINE TEAM CERTIFICATION.

01. Mandatory Certification. A canine team shall be POST certified to perform law enforcement duties. (3-20-20)T

02. Eligibility. A canine handler shall hold a POST law enforcement certification. Contract employees are not eligible for canine team certification. (3-20-20)T

03. Areas of Certification. The Council shall certify a canine team which successfully demonstrates the handler's ability to control the dog, under the scrutiny of an evaluator, in addition to proficiency in one (1) or more areas as deemed by the Council. (3-20-20)T

04. Evaluation. Evaluators of canine teams shall use POST standards for that particular skill category. Performance shall be rated on a pass/fail basis. The evaluator may discontinue testing if excessive time has been spent without results. The evaluator shall not be the owner or handler of the dog being evaluated, and not have a proprietary interest in the training of the team being evaluated. A Regional Training Specialist shall be notified of all canine certification testing. (3-20-20)T

05. Failed Evaluation. If a team fails any portion of an evaluation, the entire evaluation is considered as having been failed. All

skills shall be repeated and successfully demonstrated during retesting. The team shall wait at least twenty-four (24) hours before retesting, and be retested by the same evaluator, or his designee, that evaluated the failed test. (3-20-20)T

06. Expiration of Certification. POST Canine Certification is valid for fifteen (15) months. A canine team must be evaluated prior to their certification expiration date to maintain certification. Certification shall lapse if the handler and canine dog cease to perform canine team functions together. (3-20-20)T

092. CANINE EVALUATOR CERTIFICATION.

01. Certification. POST shall certify applicants who meet the requirements set forth in this section and are deemed qualified by their training and experience to evaluate police canine teams. Certificates shall be issued in the areas of Patrol and Detection. (3-20-20)T

02. Eligibility. To be eligible for a Canine Evaluator Certificate, each applicant shall: (3-20-20)T

a. Possess a current or previous POST professional certification and not have been previously decertified as a public safety official in any jurisdiction; (3-20-20)T

b. Have three (3) years of experience as a certified canine handler; (3-20-20)T

c. Have three hundred ninety (390) hours of POST certified or federally- approved canine-related training; (3-20-20)T

d. Complete the POST certified Canine Evaluators course; (3-20-20)T

e. Evaluate seven (7) dogs while under supervision of a POST certified canine evaluator; and (3-20-20)T

f. Submit a Canine Evaluator Application Packet to POST, which includes: (3-20-20)T

i. Transcripts, certificates, diplomas, or other documents

verifying the applicant's education and training in the canine field; and
(3-20-20)T

ii. A letter of recommendation from an administrator within the applicant's agency. (3-20-20)T

03. Retaining Certification. A certified canine evaluator shall evaluate a minimum of four (4) dogs every two (2) years in the discipline in which they are certified to evaluate. Any evaluator not satisfying this requirement shall complete all requirements for initial canine evaluator certification to be recertified. (3-20-20)T

04. Revocation. The Council may revoke Canine Evaluator certification if an evaluator is deemed unqualified to continue evaluating police canine teams. Review of canine evaluator certification may be initiated upon the request of an agency head, other reliable source or the Council. (3-20-20)T

093. – 099. (RESERVED)

100. LAPSE OF BASIC CERTIFICATION – REINSTATEMENT.

01. Lapse by Time. POST basic certification in any discipline will lapse if the officer does not serve as an officer in the discipline of certification in Idaho for three (3) consecutive years. The three-year period will be tolled during any time an officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. (3-20-20)T

02. Exception for Officers Remaining With Agency. A POST certified officer who changes from one certified discipline to another while remaining with the same agency will retain certification in the original discipline in which he was employed if he satisfies the continuing training requirements set forth in these rules. (3-20-20)T

03. Reinstatement After Three to Five Years Absence. An officer who has not served in full-time law enforcement from three (3) to five (5) years must meet the following requirements to be recertified: (3-20-20)T

a. Submit a POST Certification Challenge Packet; (3-20-20)T

b. Disclose all information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction. (3-20-20)T

c. Comply with any additional provisions required by POST. (3-20-20)T

d. Satisfy any applicable probationary period set forth in these rules. (3-20-20)T

04. Reinstatement After Five Years to Eight Years Absence. An officer who has not served in full-time law enforcement for over five (5) years but less than eight (8) years must attend a basic training academy to be recertified. (3-20-20)T

a. The Council may waive this requirement on a showing of good cause supported by clear and convincing evidence that during a substantial part of the that time out of full-time law enforcement, the officer engaged in an occupation requiring law enforcement training, skill, and experience equivalent to that required in the officer's discipline of certification. This evidence must be submitted with a POST challenge packet. (3-20-20)T

b. Upon receiving a waiver, the officer must: (3-20-20)T

i. Disclose all information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction. (3-20-20)T

ii. Satisfy any applicable probationary period set forth in these rules. (3-20-20)T

iii. Comply with any additional provisions required by POST. (3-20-20)T

05. Reinstatement After Eight Years Absence. An officer who has not served in full-time law enforcement for over eight (8) years must attend a basic training academy to be recertified. (3-20-20)T

101. – 109. (RESERVED)

110. DECERTIFICATION.

01. Mandatory Decertification. The Council shall decertify any person for: (3-20-20)T

a. A conviction of any felony or offense which would be a felony if committed in Idaho; (3-20-20)T

b. A conviction for a misdemeanor offense involving domestic violence; (3-20-20)T

c. Willfully falsifying or omitting any material information to obtain certification. (3-20-20)T

02. Discretionary Decertification. The Council may decertify any person for: (3-20-20)T

a. A conviction of any misdemeanor; (3-20-20)T

b. A violation of the Council's Code of Ethics; (3-20-20)T

c. Criminal conduct whether charged or not; (3-20-20)T

d. Consuming alcoholic beverages on duty, except as necessary for the lawful performance of duties; (3-20-20)T

e. Harassment or intimidation; (3-20-20)T

f. Lying or falsifying official written or verbal communications; (3-20-20)T

g. Inappropriate sexual conduct while on duty; (3-20-20)T

h. An inappropriate relationship, sexual or otherwise, with a person who the officer knows or should have known is a victim, witness, defendant, or informant in an ongoing investigation or adjudication; (3-20-20)T

i. Unauthorized use or unlawful conversion of the employing agency's property, equipment, or funds; (3-20-20)T

j. Intentional and unauthorized disclosure of confidential information or information that may compromise an official investigation; (3-20-20)T

k. Failure to report being charged with a felony or misdemeanor within five (5) business days; (3-20-20)T

l. Failure to respond or to respond truthfully to questions related to an investigation or legal proceeding. (3-20-20)T

03. Required Notifications by Officers and Agencies. (3-20-20)T

a. An officer charged with a felony or a misdemeanor shall notify his agency head within five (5) business days. (3-20-20)T

b. The agency head of an officer charged with a felony or misdemeanor shall notify the Division Administrator within fourteen (14) days of learning of the charge. (3-20-20)T

c. A person who is not currently employed by a law enforcement agency but is certified by POST shall notify POST of a misdemeanor or felony charge within fourteen (14) business days. (3-20-20)T

04. Effect of Decertification. (3-20-20)T

a. A person decertified by the Council is ineligible for POST certification of any kind for ten (10) years following the date of decertification. After the expiration of ten (10) years an agency head may petition the Council to allow a decertified officer to attend a basic academy and become certified. (3-20-20)T

b. No decertified person shall exercise any law enforcement authority until recertified. Any officer who is the subject of a decertification investigation is ineligible for any additional POST certification while under investigation. (3-20-20)T

111. DUE PROCESS PROCEDURES IN DECERTIFICATION PROCEEDINGS.

01. Legal Authority. In accordance with the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01.050, the Council declines to adopt the procedures established in IDAPA 04.11.01 for contested cases. The procedures provided within these rules meet the unique requirements of the law enforcement profession for

expeditious resolution of contested cases in order to assure public safety and to secure a just, speedy and economical determination of all matters presented to the Council. These procedures meet or exceed minimum Constitutional requirements for due process while allowing the Council to fulfill its obligations to protect the safety of the public and the integrity of the law enforcement profession. (3-20-20)T

02. Overview. The Division Administrator shall investigate all trustworthy allegations of misconduct by a person holding POST certification and determine whether decertification proceedings will be commenced. (3-20-20)T

03. Decertification Investigations. A person who is the subject of a decertification investigation shall receive an administrative warning requiring that he respond to questions, to answer such questions truthfully, and to acknowledge his understanding that no statements provided shall be used against him in criminal proceedings, as based on *Garrity v. New Jersey*, 385 U.S. 493 (1967). (3-20-20)T

112. DECERTIFICATION PROCEEDINGS.

If the Division Administrator determines that the allegations of misconduct by an officer, if proven, are cause for decertification, the officer shall be provided with notice and an opportunity to respond before a decision regarding decertification is made. (3-20-20)T

01. Notice of Intent to Decertify. The Division Administrator shall provide the person who is the subject of the proceeding with a notice of the intent to decertify, which includes: (3-20-20)T

a. The basis for the contemplated decertification and an explanation of the evidence supporting the intended action. (3-20-20)T

b. That the person shall have the opportunity to respond and present the Division Administrator, in writing or in person, any reasons why the intended action should not be taken. (3-20-20)T

c. That the officer person has a right to be represented by a person of their own choosing. (3-20-20)T

d. That the person may waive a response by submitting a written waiver to the Division Administrator. (3-20-20)T

e. That, if the person waives a response or fails to respond within the designated time, the Division Administrator will enter an order of decertification. (3-20-20)T

02. Decision – Request for Hearing. After the person who is the subject of the decertification proceeding has responded or waived a response, or the period to respond has expired, the Division Administrator shall, within twenty-eight (28) days, issue a decision on decertification. (3-20-20)T

a. The decision shall include findings of fact and conclusions of law and be final unless the person files a request for a hearing on the decision with the Council within fourteen (14) days of the date of the Division Administrator’s decision. (3-20-20)T

b. A request for hearing shall include a brief statement of the issues on which the person contends a hearing is required. (3-20-20)T

03. Hearing and Order. Upon receipt of a request for hearing, the Council shall assign the matter to a hearing officer for hearing. (3-20-20)T

a. The hearing officer shall have the power to subpoena witnesses, administer oaths, examine evidence and witnesses and request additional information from the parties. (3-20-20)T

b. The person who is the subject of the proceeding shall have the right to be represented at the hearing by a person of their own choosing and the right to conduct discovery. (3-20-20)T

c. Prior to submitting testimonial evidence, the person shall receive an administrative warning requiring that he provide testimony truthfully, and to acknowledge his understanding that no statements provided shall be used against him in criminal proceedings, based on *Garrity v. New Jersey*, 385 U.S. 493 (1967). (3-20-20)T

d. The hearing shall be recorded at the Council’s expense. The recording will be the official record of the hearing. Any party to the action may, at their expense, request that a transcript of the hearing be prepared or that additional recordings be made. Such a request shall be approved if the additional recording does not distract from or disrupt the hearing. (3-20-20)T

e. Pursuant to Idaho Code Section 19-5113, the Division Administrator shall have the authority to compel the attendance and testimony of witnesses and production and examination of books, papers, and records. (3-20-20)T

f. At the conclusion of proceedings, the hearing officer shall issue a decision in writing consisting of findings of fact, conclusions of law and an order that the person be decertified or that POST failed to show grounds for decertification and reinstating the officer. The decision and the record of the proceedings, shall be filed with the Council. (3-20-20)T

g. The decision shall be final, unless a petition for review by the full Council is filed with the Council within twenty-eight (28) days of the date of the decision. A petition for review shall include a brief statement of the basis upon which review is requested. (3-20-20)T

h. Where the decision directs the reinstatement of the person's certification, the Division Administrator shall reinstate certification upon the expiration of the time for filing a petition for review. (3-20-20)T

04. Petition for Review. (3-20-20)T

a. Upon receipt of a petition for review, the Council shall issue a briefing schedule allowing the petitioner an opening brief, the respondent a response brief and the petition a reply brief. The Council shall review the record, briefs submitted and may allow oral argument. The petitioner may be represented by a person of their own choosing. (3-20-20)T

b. The Council may affirm, reverse, or modify the decision of the hearing officer, or may remand the matter. The Council's decision shall be final and may be appealed to district court by filing a notice of appeal within twenty-eight (28) days of the date of service of the decision. (3-20-20)T

05. Service. Service of all notices to be given, orders or other documents under Section 092 shall be by personal service, facsimile, other electronic means, or by U.S. mail, with postage prepaid, addressed to a party's last known address. (3-20-20)T

113. –119. (RESERVED)

120. POST INSTRUCTOR CERTIFICATION.

To ensure the competence of instructors of subjects pertinent to law enforcement personnel, the Council will certify instructors who meet the requirements set forth in these rules. (3-20-20)T

121. POST INSTRUCTOR CERTIFICATION – GENERAL PROVISIONS.

01. POST Training Credit. POST will grant training credit for completion of training conducted by POST or instructed entirely by POST certified instructors provided the training is documented and meets POST training standards. (3-20-20)T

02. Agency Responsibility. Agencies, school directors, and POST Academy and Regional Training Specialists shall supervise, monitor, and audit instructors and courses to ensure that instructional excellence is maintained. (3-20-20)T

122. REQUIREMENTS FOR INSTRUCTORS OF LAW ENFORCEMENT SUBJECTS.

In addition to the other requirements for instructor certification set forth in these rules, instructors of law enforcement subjects must meet the following requirements. (3-20-20)T

01. Experience and Certification. An applicant must have a minimum of three (3) years of law enforcement experience, possess current or previous Idaho POST professional certification, and must not have been previously decertified as a law enforcement official of any jurisdiction. (3-20-20)T

02. Instructor Development Course. An applicant must complete the POST Instructor Development Course or approved equivalent. (3-20-20)T

03. Additional Requirements. An applicant must comply with any additional provisions required by POST. (3-20-20)T

123. REQUIREMENTS FOR HIGH LIABILITY INSTRUCTOR ENDORSEMENT.

POST certified instructors must obtain additional endorsements to instruct any topics deemed as “high liability” by the Council. (3-20-20)T

01. Completion of a High Liability Instructor School. An applicant for High Liability Instructor Endorsement must complete all requirements of the POST instructor course specific to the high liability topic area in which the applicant intends to instruct. (3-20-20)T

02. Application. After meeting the requirements for POST instructor certification, the applicant must submit a completed POST High Liability Instructor Endorsement Application Packet and must comply with any additional provisions required by POST. (3-20-20)T

03. Multiple Endorsements. A current POST endorsed high liability instructor applying for instructor endorsement in an additional high liability topic area must meet the requirements of this section for the additional topic area prior to endorsement in that topic. (3-20-20)T

04. Instruction Pending Endorsement. Prior to evaluation by a Regional Training Specialist, high liability instructor endorsement applicants cannot act as an instructor for any course offered for POST training credit in the intended topic area: Following completion of the POST instructor course specific to the intended high liability intended topic area, and upon notice from the Regional Training Specialist, the applicant may begin co-instruction of in the intended topic area, in preparation for evaluation. (3-20-20)T

05. Continuing Training Requirements. High liability instructors must complete a minimum of eight (8) hours of continuing instructor training every two (2) years, including use of force law, liability, and further instructor training specific to the endorsed topic area(s). (3-20-20)T

124. REQUIREMENTS FOR CANINE INSTRUCTOR CERTIFICATION.

POST canine instructor certificates recognize the competency of instructors of canine subjects pertinent to law enforcement. In addition to the other requirements set forth in these rules of POST Instructors, the following are necessary for award of a POST canine instructor certificate: (3-20-20)T

01. Canine Instructor School. The applicant must have completed a POST approved Canine Instructor School. (3-20-20)T

02. Certification and Service in Specific Discipline. The applicant must have served a minimum of five (5) years as a handler and have a minimum of five (5) annual certifications in the specific discipline for which certification is sought. (3-20-20)T

03. Canine Training. The applicant must have received a minimum of six hundred eighty (680) hours of canine training. (3-20-20)T

04. Recommendation. The applicant must be recommended for canine instructor certification by a committee comprised of a POST Training Specialist and two (2) POST certified canine instructors. (3-20-20)T

05. Application. After meeting the foregoing requirements, the applicant must submit a completed Certified Instructor Packet to POST. (3-20-20)T

06. Requirements for Maintaining Certification. To maintain certification, a POST certified canine instructor must teach a minimum of forty (40) hours every two (2) years in the specific discipline they are certified to teach. (3-20-20)T

07. Additional Requirements for Patrol Canine Instructor Certification. In addition to the requirements in this section, applicants for Patrol Canine Instructor Certification must obtain a High Liability Instructor Endorsement. (3-20-20)T

125. MASTER INSTRUCTOR CERTIFICATION.

POST master instructor certificates recognize exceptional competence as an instructor of instructors in subjects pertinent to law enforcement personnel. The Council will determine master instructor disciplines. In addition to the requirements otherwise set forth in these Rules, the following are required for award of a master instructor certificate.

(3-20-20)T

01. POST Instructor Certification. POST will determine the number of master instructor certifications issued based upon POST's need of instructors. An applicant shall be a current POST certified instructor in the subject for which master instructor certification is sought

in for a minimum of three (3) years prior to application. The Council may, upon written request, waive this requirement in exceptional cases. An applicant shall: (3-20-20)T

02. Instruction. Have instructed a minimum of forty (40) hours of classes in the subject for which he is applying for master instructor certification during each of the previous two (2) years. (3-20-20)T

03. Additional Training or Education. Have received additional training or education beyond basic training in the area of their instructor certification. (3-20-20)T

04. Exceptional Ability. Have demonstrated exceptional ability to develop and present training. (3-20-20)T

05. Recommendation. Be recommended for master instructor certification by a Regional Training Specialist or POST certified master instructor. (3-20-20)T

06. Maintain Certification. Teach a minimum of one (1) instructor class during the certification period to maintain certification. (3-20-20)T

07. Compliance With Other POST Requirements. Comply with any additional provisions required by POST. (3-20-20)T

126. MAINTAINING POST INSTRUCTOR CERTIFICATIONS AND ENDORSEMENTS.

01. Renewal of High Liability Endorsement. High liability instructor endorsements are valid for two (2) years, except Firearms endorsements which are valid for one (1) year, provided the instructor remains in good standing and complies with all POST requirements for in-service training. To renew the endorsement, the instructor must comply with any additional provisions required by POST. (3-20-20)T

02. Renewal of Master Instructor Certification. Master instructor certification is valid for three (3) years. To renew the certification, the instructor must comply with any additional provisions required by POST. If a master instructor's certification through the

manufacturer becomes invalid for any reason, his POST certification for that device shall immediately be deemed inactive. (3-20-20)T

03. Renewal of Canine Instructor Certification. Canine instructor certification is valid for two (2) years. To renew the certification, the instructor must comply with any additional provisions required by POST. (3-20-20)T

04. Lapse of POST Instructor Certification. Except as otherwise set forth in these rules, POST instructor certification is valid indefinitely, provided it is not suspended or revoked, the instructor remains in good standing, and complies with all POST in-service training requirements. (3-20-20)T

a. Instructors who fail to instruct for a period of two (2) years will be deemed inactive and may not instruct as a POST instructor until they have reapplied. (3-20-20)T

b. Inactive instructors may be required to complete a POST approved instructor orientation course. (3-20-20)T

127. SUSPENSION AND REVOCATION OF INSTRUCTOR CERTIFICATION OR ENDORSEMENT.

01. Suspension. The Division Administrator may suspend instructor certification or endorsement for up to one year if an instructor significantly or repeatedly fails to develop, document, conduct, or report training activities according to POST standards, or fails to abide by the POST Instructor Code of Ethics. A suspension will initiate an immediate review to determine if a revocation of the instructor's certificate is warranted. (3-20-20)T

02. Revocation. The Council may revoke instructor certification if an instructor is deemed unqualified to continue instructing. Review of instructor certification may be initiated upon request of an agency head, school director or coordinator, POST Division Administrator, the Council, or other reliable source. (3-20-20)T

128. – 129. (RESERVED)

130. IN-SERVICE TRAINING REQUIREMENTS.

The Council may, as a condition of continuing certification, require law enforcement officers to attend in-service training meeting POST standards. (3-20-20)T

131. IN-SERVICE TRAINING REQUIREMENTS FOR RETAINING BASIC CERTIFICATION.

01. Peace Officers and County Detention Officers. To retain POST certification, a peace officer or county detention officer must complete a minimum of forty (40) hours of continuing law enforcement training related to law enforcement every two (2) calendar years beginning January 1 following the date the officer was certified. (3-20-20)T

02. Emergency Communications Officers. To retain POST certification, an emergency communications officer must complete a minimum of forty (40) hours of continuing training related to public safety emergency communications every two (2) calendar years beginning January 1 following the date the officer was certified. (3-20-20)T

03. Tolling of Two-Year Period. The two (2) year continuing training period shall be tolled while an officer is on active military duty, and recommence upon the officer's return to duty with his agency. The agency shall submit a Notice of Separation/Change in Status form upon the officer's departure from and return to the agency. (3-20-20)T

132. DOCUMENTATION OF IN-SERVICE TRAINING.

01. Agency Responsibility to Ensure Accuracy of Training Records. Agency heads are required to ensure POST records of agency personnel training are up to date and complete as of December 31 of each year. (3-20-20)T

02. Agency Retention of Training Records. Each agency shall maintain, and make available to POST, records of each in-service training course provided, including: (3-20-20)T

a. The name of the course provider and name and resume of the course instructor; (3-20-20)T

b. The course learning objectives, the number of instructional hours, the number of in-service training hours awarded and the attendance roster. (3-20-20)T

c. The names of the trainees completing the course and the date of completion. (3-20-20)T

03. POST Training Credit. No officer may receive POST training credit for training which has not been certified or approved by POST. (3-20-20)T

04. Notice of Non-Compliance. POST shall give written notice to officers who are not in compliance with in-service training requirements, and their agency heads. If an officer is not in compliance by December 31 of a two-year training cycle, his certification shall be suspended beginning January 1 of the following calendar year, unless an extension of time, not to exceed six (6) months, is granted by POST. The Division Administrator, may grant an additional extension of time for good cause shown. (3-20-20)T

05. College Courses. An officer fulfilling continuing training requirements by successfully completing a college course must have the college provide the employing agency with a transcript. The agency will make the transcript available to POST upon request. (3-20-20)T

133. POST CREDIT FOR IN-SERVICE TRAINING.

01. Credit for POST In-Service Training Provided by a Post Certified Instructor in Idaho. POST will grant training credit for in-service training according to the following criteria: (3-20-20)T

a. The training was provided by Idaho POST Certified Instructor(s). One (1) or more training instructors for any class must be POST certified. Instructors who are not POST certified will not be given credit for POST instructor hours. (3-20-20)T

b. The training was at least thirty (30) minutes in length. (3-20-20)T

02. Credit for POST In-Service Training Provided by an Organization or Vendor who is not POST Certified. All third-party in-service training must be pre- approved. The Council may maintain a list

of organizations and vendors that will be exempt from this pre-approval process based on their reputation providing quality training, that are well established training organizations within the law enforcement training community, or that are offered through a regionally accredited college or university. Organizations and vendors who do not meet the criteria established through the Council, or its designee must meet the following criteria. (3-20-20)T

a. At least thirty (30) days prior to an in-service training session, the host agency will submit the following documents to a Regional Training Specialist: (3-20-20)T

i. A course outline; (3-20-20)T

ii. A description of the subject material and the time period to be devoted to each subject area; (3-20-20)T

iii. A description of the enforcement personnel to be instructed; (3-20-20)T

iv. A résumé on each instructor, unless the instructor is POST certified or approved; and (3-20-20)T

v. A lesson plan and all presentation and handout materials used in the course. (3-20-20)T

b. The course must be at least four (4) hours in length. (3-20-20)T

c. Any course which has been approved through this process, may be placed on the Council's designated pre-approved list after meeting the following criteria: (3-20-20)T

i. The course has been taught at least once in a calendar year, for at least three (3) consecutive years; or (3-20-20)T

ii. Is approved by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) and placed on the IADLEST national course certification index. (3-20-20)T

03. Course Attendance Roster. A lead instructor or facilitator must submit an original or electronic POST course attendance

roster no later than thirty (30) days following the completion of the training for POST training credit approval. (3-20-20)T

04. Training Outside Idaho. In-service training which is delivered outside of Idaho will be considered POST approved if the trainee provides any of the following: (3-20-20)T

a. The training was approved by the state's equivalent of POST, where the training occurred; or (3-20-20)T

b. The training course was approved by the International Association of Directors of Law Enforcement Standards and Training (IADLEST); or (3-20-20)T

c. The training course meets the criteria set forth above; and (3-20-20)T

d. Is submitted within thirty (30) days of the completion of the course; and (3-20-20)T

e. The trainee provides POST with the location, hours of the training, and a course syllabus or table of contents. (3-20-20)T

134. COURSE EVALUATION FEE.

01. Fee Schedule. POST may charge an entity applying for school or course approval a course evaluation fee at the time of application as follows: (3-20-20)T

a. One (1) to four (4) hour course: \$200. (3-20-20)T

b. Five (5) to eight (8) hour course: \$400. (3-20-20)T

c. Nine (9) to sixteen (16) hour course: \$600. (3-20-20)T

d. Seventeen (17) to twenty-four (24) hour course: \$800. (3-20-20)T

e. Twenty-five (25) to forty (40) hour course: \$1,000. (3-20-20)T

f. Over 40 hours: A combination of the above as determined by the Division Administrator. (3-20-20)T

02. Exception. POST will not charge a course evaluation fee to governmental entities. (3-20-20)T

03. Waiver. The Division Administrator may waive a course evaluation fee in whole or in part. (3-20-20)T

135. ALTERNATIVE METHODS OF IN-SERVICE TRAINING. The Council may approve alternative methods of delivering training, including but not limited to training by videotape or compact discs, computer programs, internet-based training or written correspondence. (3-20-20)T

01. Training Medium. The training medium utilized must be indicated on the application for approval of the training. (3-20-20)T

02. Specialized Equipment. The applicant must provide POST with any specialized equipment, software, network access, etc. needed for the evaluation, at no cost at the time of application. (3-20-20)T

03. Course Evaluation Fee. A course evaluation fee may be charged pursuant to these rules. (3-20-20)T

136. – 139. (RESERVED)

140. LAW ENFORCEMENT CERTIFICATION PROGRAM APPROVAL.

POST approval of a law enforcement certification program is established to ensure that instruction offered by such programs is equivalent to or exceeds POST basic academy training. (3-20-20)T

141. LAW ENFORCEMENT CERTIFICATION PROGRAM – GENERAL PROVISIONS.

01. Eligibility. To be eligible for approval as a law enforcement certification program, program must comply with all Idaho Department of Education standards if applicable, for such programs, and all other requirements of these rules. (3-20-20)T

02. Permission to Proceed With Approval Process. A program seeking approval as a law enforcement certification program must receive permission to proceed from POST prior to beginning the approval process, comply with the requirements of these Rules, and

contact a Regional Training Specialist to schedule an on-site assessment. (3-20-20)T

03. Initial Assessment. POST will conduct an on-site assessment and provide the results to the program coordinator. (3-20-20)T

a. If the assessment finds that all requirements for program approval have not been met, the program will be given ninety (90) days to correct the deficiencies and a Regional Training Specialist will conduct a second on-site assessment. (3-20-20)T

b. If all requirements for the program approval are met, the Council will approve the program. (3-20-20)T

04. Assessment Visits. POST may conduct scheduled and unscheduled visits to entities seeking law enforcement certification program approval and currently- approved programs, to assess adherence to POST standards. (3-20-20)T

05. Expiration and Renewal of Certification. (3-20-20)T

a. Initial and subsequent law enforcement certification program approval is valid for two (2) years. (3-20-20)T

b. Renewals must be completed prior to the program approval expiration date. (3-20-20)T

142. ADMINISTRATION OF COLLEGE OR UNIVERSITY PROGRAM.

A college or university law enforcement certification program shall have an advisory committee comprised of the Division Administrator or his designee and criminal justice executives or their designees from several agencies representative of the region the program serves. (3-20-20)T

01. Chair and Vice-Chair; Selection; Term. The advisory committee will elect a chair and vice-chair from among the committee members other than the Division Administrator or designee. The terms of office will be initially staggered. No chair or vice-chair may serve in that capacity for longer than four (4) consecutive years. (3-20-20)T

02. Duties of Chair and Vice-Chair. The chair or vice-chair schedule meetings and set agendas for advisory committee, meetings, work with the program coordinator and the program's administration, and perform other duties as necessary. (3-20-20)T

143. MAINTENANCE OF RECORDS.

A law enforcement certification program must maintain: (3-20-20)T

01. Course File. A file for each POST approved law enforcement training course it conducts, including curriculum, class schedules, attendance and discipline records, counseling records, tests with answer sheets, a course summary, and course evaluations. (3-20-20)T

02. Student Training File. A training file for each student including sufficient records to determine whether the student has completed all performance objectives. (3-20-20)T

03. Instructor File. A file for each instructor for the program including proof that the instructor is POST certified for each subject the instructor teaches, a copy of the instructor's student evaluations for the past year, and any other pertinent information related to the instructor's performance. (3-20-20)T

144. MINIMUM ATTENDANCE REQUIREMENTS.

A law enforcement certification program may have no fewer than six (6) students in a required class. Training required for certification will not be conducted for a class of less than six (6) students. The Council may consider exceptions upon a written request from the program coordinator. (3-20-20)T

145. POST-GRADUATION SELF-EVALUATION.

A law enforcement certification program must conduct post-graduation evaluations of its entry-level training from six (6) to twelve (12) months after students leave the program, and must assess the relevance of the training to current law enforcement practices. (3-20-20)T

146. INSTRUCTION.

A law enforcement certification program must: (3-20-20)T

01. Monitoring of Instruction. Conduct periodic and random monitoring of instruction to ensure that lesson plans are being used, objectives are being addressed, appropriate instructional aids are

available and being used properly, the instructor is in control and engaging the students; and classroom conditions such as lighting, noise levels, and temperature are acceptable. (3-20-20)T

02. Lesson Plans. Have a lesson plan on file for every training class and must review and update lesson plans and curricula on a regular basis to ensure compliance with POST requirements. (3-20-20)T

03. Evaluation of Instructors. Require students to complete written evaluations of every instructor. (3-20-20)T

04. Student Complaints. Investigate any student complaint regarding an instructor or the training process. (3-20-20)T

147. STANDARDS.

01. Law Enforcement Certification Program Student.
Shall: (3-20-20)T

a. Meet the minimum standards for POST certification as set forth in these rules, with the exception of age. (3-20-20)T

b. Attest that he has read, understands, and will abide by the Law Enforcement Code of Conduct as set forth in these rules. (3-20-20)T

02. Law Enforcement Certification Program. Shall: (3-20-20)T

a. Have an integrity policy, which provides that dishonesty, including academic dishonesty, plagiarism and untruthfulness are grounds for disciplinary action and expulsion. All students shall review this policy on entering the program. (3-20-20)T

b. Have a policy prohibiting students from social contact, on or off campus, with staff members or instructors. Students and program staff or instructors shall maintain a professional relationship at all times. (3-20-20)T

c. Address other standards of conduct and behavior that reflect courtesy, consideration, and respect for others. Any conduct detrimental to the conduct, efficiency, or discipline of the program is prohibited. (3-20-20)T

148. PERIODIC ASSESSMENT BY POST.

01. Assessment. POST will perform periodic on-site assessments of each law enforcement certification program. POST will provide the program coordinator with no less than two (2) weeks notice prior to the assessment, and notify the program coordinator of the results.
(3-20-20)T

02. Failure to Comply With Standards; Reassessment. If a law enforcement certification program does not meet all requirements for POST approval, the Council may suspend approval and direct corrective action.
(3-20-20)T

a. The program must remedy all deficiencies within ninety (90) days of the initial assessment unless the Council grants an extension of time.
(3-20-20)T

b. After ninety (90) days, or the applicable period if an extension of time is granted, POST will conduct a reassessment of the program. If all deficiencies are corrected, the Council will approve the program.
(3-20-20)T

c. If all standards are not met, POST will notify the program administrator and, if applicable, the chairman of the program's advisory committee of the continuing deficiencies. The Council will review the reassessment report and may grant additional time to correct the deficiencies.
(3-20-20)T

d. If all deficiencies are not corrected, the Council will revoke approval.
(3-20-20)T

149. – 999. (RESERVED)

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