IDAPA 05 – Idaho Department of Juvenile Corrections

Legal Services

05.01.03 – Rules of the Custody Review Board

Who does this rule apply to?
This rule applies to Department employees and members of the Custody Review Board.

What is the purpose of this rule?
This rule ensures that custody for qualifying juveniles is reviewed timely and that juveniles are not unlawfully retained in custody.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statute(s) passed by the Idaho Legislature:

State Prison and County Jails -
Juvenile Corrections Act:

- Section 20-520, Idaho Code – Sentencing
- Section 20-532, Idaho Code – Terms of Confinement – Review After Confinement
- Section 20-504, Idaho Code – Duties of The Department of Juvenile Corrections

Who do I contact for more information on this rule?

Idaho Department of Juvenile Corrections
P.O. Box 83720
Boise, ID, 83720
Phone: (208) 334-5100
Fax: (208) 334-5120
Email: ContactUs@idjc.idaho.gov
Website: http://www.idjc.idaho.gov

This rule chapter will be reviewed in compliance with Section 67-5292, Idaho Code, and in accordance with the 8-year rule review schedule linked here.

Table of Contents

05.01.03 – Rules of the Custody Review Board

000. Legal Authority. 3
001. Scope. 3
002. -- 009. (Reserved) 3
010. Definitions. 3
011. -- 099. (Reserved) 3
100. General Provisions. 3
101. Powers And Duties. 3
102. Structure And Composition Of The Custody Review Board. 3
103. -- 199. (Reserved) 3
200. Review Process. 3
201. Referral Of Cases To The Board. 4
202. Persons To Attend Or Comment. 4
203. Conflict Of Interest. 4
204. -- 299. (Reserved) 4
300. Board Determinations. 4
301. -- 399. (Reserved) 5
400. Victims. 5
401. -- 999. (Reserved) 5

000. LEGAL AUTHORITY.
Title 20, Chapter 5, Idaho Code. (4-6-23)

001. SCOPE.
These rules are established to ensure that the juvenile corrections system in Idaho and determinations of the Custody Review Board are based on the principles of accountability, community protection, and competency development. (4-6-23)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Section 20-502, Idaho Code, the following definitions apply: (4-6-23)

01. Case Management Team. A team consisting of juvenile services coordinator, rehabilitation specialist and juvenile probation officer who provide input in setting and following through with treatment goals. (4-6-23)

02. Extended Time in Custody. Any period a juvenile remains in custody after age nineteen (19) or beyond eighteen (18) consecutive months and not to exceed age twenty-one (21). (4-6-23)

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. (4-6-23)

101. POWERS AND DUTIES.

01. Review. The Board reviews cases that are referred according to Section 201 of these rules.(4-6-23)

02. Board Determinations. The Board will determine whether the juvenile needs an extended time in custody to address accountability, community protection, and competency. (4-6-23)

03. Placement. The Board cannot direct the placement or treatment of a juvenile. (4-6-23)

04. Release Date for Juveniles. If the Board determines that a juvenile not be retained in custody, the Director sets a release date, as follows: (4-6-23)

a. A juvenile referred per Subsection 201.01.a. who appears before the Board prior to his nineteenth birthday is released by his nineteenth birthday. The Department may retain the juvenile up to forty-five (45) days after the juvenile's nineteenth birthday only if necessary to finalize an appropriate release plan. (4-6-23)

b. In cases referred per Subsection 201.01.b., the Department may retain the juvenile long enough to finalize an appropriate release plan, not to exceed forty-five (45) days after the Director signs the Board's determination. (4-6-23)

c. The Director retains release authority for cases referred per Subsection 201.01.c. (4-6-23)

102. STRUCTURE AND COMPOSITION OF THE CUSTODY REVIEW BOARD.

01. Board Members and Appointment. The Board is composed of four (4) members appointed by the Director who represent a variety of experiences. Terms are four (4) years, at the pleasure of the Director. In the case of vacancies, appointments are for the remainder of the original term. (4-6-23)

02. Compensation of Board Members. Members serve without honorarium or compensation but are reimbursed for expenses, subject to the limits provided in Section 67-2008, Idaho Code. (4-6-23)

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 (4-6-23)

201. REFERRAL OF CASES TO THE BOARD.

01. Cases Eligible for Referral. A case is eligible for referral to the Board if: (4-6-23)

a. The juvenile is no more than six (6) months from his nineteenth birthday and one (1) or more members of the case management team believes that the juvenile needs extended time in custody beyond that juvenile's nineteenth birthday; (4-6-23)

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; or (4-6-23)

c. The juvenile is no more than three (3) months from being in custody for eighteen (18) consecutive months and one (1) or more members of the case management team believes that the juvenile needs extended time in custody beyond eighteen (18) months. (4-6-23)

d. Cases referred per Subsection 201.01.c. will be heard every six (6) months thereafter until the juvenile is released from custody. (4-6-23)

02. Hearing Schedules. The Board will set a dates for the hearings annually. (4-6-23)

03. Written Submissions. All documents to be considered at a particular hearing need to be submitted in advance of the scheduled hearing. (4-6-23)

202. PERSONS TO ATTEND OR COMMENT.

01. Juvenile. The subject of a hearing is required to appear either in person or by video. (4-6-23)

02. Witnesses. The Board allows 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 to participate. (4-6-23)

03. Participation. Persons who want to participate in hearings shall notify the Board staff in advance of the scheduled hearing. Children, including victims, under the age of fourteen (14), are not allowed to attend the hearings without prior approval of the Board. Parents or guardians of child victims in a case may participate.(4-6-23)

04. Time Limited. The Board may limit the time allotted to each participant during the hearing. (4-6-23)

05. Exclusion. The Board may exclude witnesses or participants for inappropriate or disruptive behavior, or other good cause. (4-6-23)

203. CONFLICT OF INTEREST.
A member of the Board who has personal knowledge of a case, shall notify all other Board members prior to the hearing where that case is to be considered. The remaining members will determine whether that member should be disqualified from participating in the review of that case and determination. (4-6-23)

204. -- 299. (RESERVED)

300. BOARD DETERMINATIONS.

01. Board's Determination. The Board's written determination 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. All determinations will be held by the Department in the case management file. (4-6-23)

02. Reconsideration. The Board may reconsider its determination prior to the determination being given to the Director. Only the members who heard the case may discuss or vote on any reconsideration. (4-6-23)

a. Any member of the Board who was present for and heard the case may call for a vote to reconsider the Board's determination by making a request through the Board chair. (4-6-23)

b. The chair will call for a motion to reconsider, and a vote. (4-6-23)

03. Indeterminate Sentence Remains. If the Board determines that extended time in custody is necessary, that determination does not create a determinate sentence of any kind, and the Director retains the authority to release the juvenile at any time deemed appropriate. (4-6-23)

04. Official Record of Hearing/Review. The signed summary minutes are the official record of a hearing or case review and are maintained with records of the Department. (4-6-23)

05. Evaluation of Juvenile Cases. 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 considered by the Board include, but are not limited to: (4-6-23)

a. Seriousness of the crime; (4-6-23)

b. Prior criminal history; (4-6-23)

c. Progress or completion of program, treatment plan, accountability; (4-6-23)

d. Institutional history to include conformance to established rules, involvement in programs and overall behavior; (4-6-23)

e. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen; and (4-6-23)

f. Information regarding physical, psychological, or other conditions. (4-6-23)

301. -- 399. (RESERVED)

400. VICTIMS.
The Department and the Board will respect the rights of victims of crime, pursuant to the Idaho Constitution and statute. When a case is referred, the Department will provide the Board with a list of crime victims who were officially identified by the adjudicating court or prosecuting attorney. (4-6-23)

01. Notice to Victims. The Board will notify identified victims of a juvenile's crime that a custody review hearing is scheduled and of their right to submit written statements or information and testimony. After the hearing, the Department shall notify victims of the Board's determination. (4-6-23)

a. Notices including the Board's final determination and any anticipated release documents will be sent to the victim of record at the last known address or through a victim witness coordinator. The victim is responsible for providing any change of address. (4-6-23)

b. Victims may request that they not be notified or contacted. (4-6-23)

02. Victim Testimony. A victim may attend all 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. (4-6-23)

401. -- 999. (RESERVED)