

Proposed Amendments to the Idaho Juvenile Rules
Administrative Conference, February 4-5, 2020

The following rule amendments are recommended by the Idaho Supreme Court's Juvenile Justice Advisory Committee (JJAC) for approval by the Administrative Conference.

Proposed Amendments to IJR 10. Change of Venue: Following the amendments to IJR 10 and the repeal of IJR 10A and 10B in July of 2019, the Idaho Association of Counties Juvenile Administrators Association requested a rule from the courts to set out the process for "temporary transfers of supervision" (aka "courtesy supervision"). The proposed amendment adds a new subsection that is modeled after the process for transferring supervision in adult misdemeanor cases.

Idaho Juvenile Rule 10. Change of Venue; Temporary Transfer of Supervision. (J.C.A.)

(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), ~~and/or~~ guardian, 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), ~~and/or~~ guardian, or custodian of the date and time of the juvenile's next appearance;
- (B) direct the juvenile and the juvenile's parent(s), ~~and/or~~ 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.

Proposed Amendment to I.J.R. 17. Sentencing Hearing (J.C.A.): Although many of the magistrate courts order and authorize the use of discretionary detention time in juvenile cases, there is currently no rule setting out the procedure. The proposed amendment provides for the use of discretionary detention time upon a finding of reasonable cause and written order of the court. The amendment is modeled after Idaho Criminal Rule 33(e) and limits the time a juvenile may serve discretionary time to no more than 3 days and requires that the juvenile be given credit for any time served against the total detention time ordered in the judgment.

Idaho Juvenile 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 days 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.

(fg) 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.

Proposed Amendment to I.J.R. 18. Revocation of Formal Probation; Revocation of Informal Adjustment; and Entry of Adjudication Order: The proposed amendment seeks to clarify the courts' options following a violation of formal probation or informal adjustment.

Idaho Juvenile Rule 18. ~~Revocation Violation~~ of Formal Probation Order; ~~Revocation Violation~~ of Informal Adjustment; and ~~Entry of Adjudication Order~~ (J.C.A.)

(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, ~~enter an order of adjudication and~~ impose any sentence available to the court pursuant to ~~I.C. Section 20-520~~ the Idaho Juvenile Corrections Act.