

CLERK OF THE DISTRICT COURT MANUAL

12.0 JUVENILE CORRECTIONS ACT

Revised April 2008

12.1 INTRODUCTION

Persons under the age of 18, commonly referred to as juveniles, are treated by the law in different ways than adults. There are certain violations that pertain only to persons under 18, such as curfew, runaway, truancy, and incorrigibility (commonly referred to as status offenses). There are also other violations that make no distinction based on age, such as speeding. Also, if a person 14 years of age or older commits a serious felony offense, they are immediately treated as if they are an adult. There are other violations that fall within the purview of the Juvenile Corrections Act (JCA). The Juvenile Corrections Act follows the Balanced Approach which requires the court at sentencing to protect the community, hold the juvenile accountable for his actions, and to assist the juvenile in developing skills to become a contributing member of a diverse community. The following section provides a brief outline of the different ways the courts deal with persons under 18 years of age.

A: People under the age of 18 may be charged by citation or complaint for certain misdemeanors or infractions and these cases are processed in the same manner as adults charged by citation or complaint. Examples may include:

Misdemeanors: traffic, alcohol possession, Fish and Game, tobacco possession, water craft violations and carrying concealed weapons on school property. (Juvenile violators under the age of 18 may be treated under the JCA per the discretion of the court. (Idaho Code 20-505(6))

Infractions: violations as listed in Chapters 6-9 of Title 49 of the Idaho Code.

B. Persons age 14 or over, charged with certain serious felony offenses, such as: murder, robbery, selected sex crimes, mayhem, assault and battery, certain types of arson and controlled substance violations near schools, see IC § 20-509, are immediately processed as an adult.

C. Juvenile Corrections Act (Idaho Code Title 20 Chapter 5): Proceedings under the Idaho Juvenile Corrections Act are for persons under the age of eighteen who have been charged with the violation of law other than the exceptions noted.

Juvenile proceedings are closed through the admit/deny hearing, and are then open to the general public unless the court orders otherwise. Similarly, the case file is opened after the admit/deny hearing, unless the court orders that the case file should be closed to the public (ICAR 32 (d) (7)(B)(1)). Victims of a juvenile offense are entitled to attend all judicial proceedings pertaining to their case.

D. Jurisdiction Over Parents (I.C. 20-522 and 20-524): It is policy of the state of Idaho that parents or other legal guardians of the juvenile offender participate in the accomplishment of the goals of the Act through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior and be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile's delinquent actions.

Parents or legal guardians may be ordered to enter into a contract requiring them to perform certain requirements, or the court may order parents or guardians to perform certain requirements. Failure to abide by the contract or perform the court ordered requirements can result in the parents being held to answer under the contempt power of the court. (See the procedure for contempt proceedings.) Contempt proceedings in juvenile court are ancillary proceedings in the juvenile's case. (IJR 25)

12.2 UNIQUE TERMINOLOGY-JUVENILE CASE PROCESSING

(IC § 20-502)

The following are a number of terms that are unique to the processing of juvenile cases.

Adult: A person eighteen (18) years of age or older.

Commit: To transfer legal custody.

Community-Based Program: An in-home confinement program or a nonsecure or staff secured 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.

Custody Review Board: The Board created by the Idaho legislature for the purpose of reviewing cases of certain, older juveniles in the custody of the Idaho Department of Juvenile Corrections and to issue an opinion to the Director as to whether or not that juvenile should be released from state custody or should remain in custody for an extended period of time to address competency, accountability and community protection.

Detention: The temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities.

Detention center: A facility established pursuant to sections 20-517 and 20-518, Idaho Code.

Diversions: The utilization of local community resources, churches, counseling for the juvenile 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.

Juvenile: A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of this chapter.

Juvenile Corrections Center: Any state-operated secure facility wherever located.

Juvenile Offender: A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult.

Legal Custody: The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

Legal Guardian: 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 or operator, 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.

Observation and Assessment Program: Any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment.

Secure Facility: Any state-operated facility or facility operated under contract with the state which provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

Work Program: 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.

12.3 FILING A PETITION

A Petition is filed normally by the prosecuting attorney, although a peace officer or any authorized representative of the board of trustees of a school district of this state may also file a petition.

Clerical Duties:

1. File stamp the petition, open the case, and enter in the ROA.

12.4 CURFEW VIOLATIONS

In lieu of a petition, a peace officer may issue a citation for a county or city ordinance for a violation of curfew. The citation will provide a date certain for the appearance before a magistrate of the juvenile and the parent or legal guardian. A case initiated by a citation shall proceed as though the violation had been charged by petition under the Juvenile Corrections Act > IC § 20-510, > IC § 20-549.

Clerical Duties:

1. Open a JCA case in ISTARs.
2. As with a petition, use "curfew violation" as the charge.
3. Schedule an admit/deny hearing as per Section 12.6.

Note: Do not enter any curfew violations in ISTARs as a citation, open as a juvenile case.

Note: The juvenile can be fined up to \$300.00 for a curfew violation with monies to be deposited into the Juvenile Justice Fund if established or in the county current expense fund for juvenile corrections purposes > I.C. § 20-549 >.

12.5 DETENTION HEARING

If a juvenile is in custody, a detention hearing is held within 24 hours, excluding Saturdays, Sundays and holidays. At the hearing the judge decides and issues an order whether or not the juvenile should remain in detention until further order of the court (I.C. § 20-516 (6)).

Clerical Duties:

1. If an Order of Detention is issued:
 - a. File stamp original order, enter in ROA, distribute copies to the appropriate agencies and mail to the parents or legal guardian, if they were not present at the Detention Hearing;
 - b. Prepare an Order of Transport for the next hearing, if necessary, pursuant to local practice.
2. If an Order Releasing Child from Detention and Fixing Temporary Custody issued:

- a. File stamp original order, enter in ROA, distribute copies to the appropriate agencies and mail to the parents or legal guardian, if they were not present at the Detention Hearing;

12.6 SETTING THE ADMIT/DENY HEARING

Once a petition is filed and after the detention hearing, if detention is an issue, a hearing date is set for the juvenile to make an initial appearance before the court. The admit/deny hearing is similar to an adult criminal arraignment hearing. The admit/deny hearing may be held at the same time as the detention hearing. If the juvenile is not in custody, the court issues a summons requiring the person who has custody or control of the juvenile, along with the juvenile, to appear in court within 15 days of issuance of the summons to respond to the allegation[s] in the petition (Idaho Juvenile Rule 3(b)).

Clerical Duties:

1. Schedule admit/deny hearing and send appropriate copies per local practice.
2. Sign and issue the Summons.
3. Prepare appropriate copies of summons and petition for service upon the juvenile, the juvenile's parent(s), guardian or custodian either by personal service through sheriff or certified mail.

12.7 HEARING TO ADMIT OR DENY

At the admit/deny hearing, the juvenile is advised of his or her rights as provided in > I.J.R. 6 and the charges set forth in the petition. Next, it will be determined if the juvenile wants to hire an attorney or request a public defender. A continuance may be granted for that purpose. The juvenile is asked to admit or deny the charges in the petition.

- a. The juvenile admits (pleads guilty) to the allegations in the petition.

The case may either be disposed of by informal adjustment (similar to a withheld judgment), or if the juvenile and the juvenile's counsel agree, the court may proceed to immediate sentencing. The judge may order a social history investigation by the county department of juvenile probation and sets the case for final disposition.

- b. The juvenile denies (pleads not guilty to) the allegations in the petition.

The case is set for an evidentiary hearing (trial).

Clerical Duties upon entry of a plea:

1. Enter the hearing result (ADNY) and the plea in ISTARs.
2. When prompted, allow ISTARs to unseal the case unless the judge has ordered otherwise.

3. If a public defender is appointed, prepare an order appointing a public defender and add attorney to the appropriate party. Send a copy of the Order Appointing the Public Defender and the Petition to the public defender.
4. Schedule the next hearing and send appropriate copies per local practice.

Note: Even if the juvenile case is opened to the public, the social history is physically sealed to public inspection by placing it in a sealed envelope in the case file.

c. In the event of a continuance:

1. Enter hearing results
2. Schedule the next hearing and send appropriate notices per local practice

12.8 EVIDENTIARY HEARING (TRIAL)/DISPOSITION (SENTENCING)

The evidentiary hearing is held in front of the judge and not a jury to determine if the petition is true or not. If the court finds the petition is true, it may order a social history investigation and set the matter for sentencing; or proceed to sentencing. Following the sentencing the court shall enter a written decree, pursuant to IJR 17.

Clerical Duties:

1. For trial duties, refer to Section 27.0 relating to Trial Procedures and Court Minutes.
2. Enter the hearing results in ISTARs.
3. If sentenced, enter all dispositional information, including fines, fees, probation, etc. Distribute in court or send judgment and other orders as per local practice.
4. If further reports are ordered, schedule disposition hearing, and send appropriate notices per local practice.

12.9 TRANSFER OF CASE TO HOME COUNTY FOR DISPOSITION (SENTENCING)

In the event that the juvenile enters a plea of guilty or files his/her intention to admit to the allegation, and certain conditions are met, the court can order the case transferred to the juvenile's home county for sentencing pursuant to IJR 10 (a). After transfer, if the juvenile denies the allegation, the case will be returned to the originating court.

Clerical Duties:

1. Keep a copy of the petition and the original order of transfer.
2. Forward the entire original file contents and printout of the ISTARs case history with a certified copy of the Order of Transfer to the receiving county. Send these documents by certified mail.

3. Enter appropriate transfer out and disposition codes in ISTARs and close the case.
4. In the receiving county, make appropriate entries in ISTARs indicating that the case was transferred in from another county and create a new file folder. Also, generate the form ordering the social history investigation and set the matter for sentencing. Send out notices to appropriate parties.

12.10 TRANSFER OF JURISDICTION (IC § 20-508) (IJR 26)

Under certain circumstances, the court may waive jurisdiction under the Juvenile Corrections Act and order that the juvenile be prosecuted as an adult. In such instances, a "Motion to Waive Jurisdiction" will be made by the prosecuting attorney or the court will do the same on its own initiative.

A "Notice of Hearing to Waive Jurisdiction" is sent to the juvenile and the parents, guardian, or custodian of the juvenile, and the prosecuting attorney at least 10 days before the date of the hearing (or a lesser period if agreed to by the parties). Service of the "Notice" is made in the manner prescribed for service of summonses.

The court will order an investigation report to be submitted to the court prior to the hearing on the waiver motion. The hearing is held in the same manner as an evidentiary hearing.

Clerical Duties:

1. Schedule a "Hearing to Waive Jurisdiction" and send appropriate copies of notice as per local practice.
2. Upon receipt of the report of investigation, immediately send copies to attorneys in the case.

If jurisdiction is waived, the prosecutor will file a criminal complaint within 24 hours. The juvenile will be remanded to the custody of the sheriff and an initial appearance will be ordered (IJR 26(d)):

1. Enter the finding of "Other" for the charges and enter the information that jurisdiction was waived.
2. A copy of the Order Waiving Jurisdiction needs to be filed with the new criminal case.
3. Forward any necessary commitment orders to the sheriff.
4. Close the case in ISTARs.

If jurisdiction is not waived, the petition continues to be processed under the Juvenile Corrections Act.

1. Set the next hearing as required by the judge.

2. Send appropriate notices as per local practice.

Note: A motion to waive cannot be made after a juvenile has admitted the charge.

12.11 JUVENILE CASE EXPANDED INTO A CPA CASE

During the processing of a juvenile case, under the Juvenile Corrections Act, the Court may order the juvenile case to be expanded into a Child Protective Act 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 IC § 16-1609. (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 (Idaho Juvenile Rule 16).

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. If the juvenile is in detention, the court may not require an immediate shelter care hearing.

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. 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 16-1608 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.

Clerical Duties:

1. File a copy of the order expanding jurisdiction in the Juvenile Corrections Act case and file the original order in the new Child Protection Act case.

2. See the Child Protection Act Proceedings section for clerical duties.

12.12 VIOLATION OF INFORMAL ADJUSTMENT OR PROBATION

The prosecutor can file a petition that includes a sworn affidavit that the juvenile has violated the conditions of his/her informal adjustment or probation. Upon receipt, the court shall set an admit/deny hearing on the alleged violation. If the juvenile denies the allegations an evidentiary hearing shall be set. If the court finds that the juvenile violated conditions of probation, the court can either reinstate the original sentence, with further conditions, or can impose the remaining conditions of the original sentence. If the informal adjustment conditions are violated, the court can enter an order of adjudication, and impose any sentence available under the law. (IJR 18)

Clerical Duties:

1. Reopen the original case in ISTARs, enter probation violation charge as per local practice;
2. File stamp the petition/motion with affidavit and enter in the ROA;
3. Set an admit/deny hearing and send out notices;

If a denial is entered at the admit/deny hearing:

1. Enter the denial and other hearing results in the ROA
2. Set the evidentiary hearing
3. Print and distribute notices to appropriate parties

Upon an admission/finding of violation of probation:

1. File and distribute the judge's order to appropriate parties
2. Make any adjustments to the existing dispositional information in ISTARs including the accounting and receipting of fees, if ordered.
3. Close the case in ISTARs.

12.13 PRIORITY OF PAYMENTS

See Idaho Supreme Court website.

12.14 CONFIDENTIALITY OF JUVENILE RECORDS

1. Introduction. The confidentiality of court records of juvenile cases is governed by Idaho Court Administrative Rule 32(g)(9). Whether or not a record will be open to the public depends firstly on whether the case is governed by the current law (the Juvenile Corrections Act, IC 20-501 and following), or the former law (the Youth Rehabilitation Act). The confidentiality of case records under the current law may depend on the status of the case, the age of the juvenile, the nature of the offense, and the presence of written court orders.

2. Youth Rehabilitation Act (YRA) Case Records. All case records under the former Youth Rehabilitation Act (formerly I.C. § 16-1801 and following) are confidential unless there is a written order of the judge stating otherwise.

Note: Cases before October 1, 1995, are governed by the YRA.

3. Juvenile Corrections Act (JCA) Case Records. Cases filed on or after October 1, 1995, are governed by the JCA. All records under the JCA are automatically closed to the public from the time the petition is filed until the admit/deny hearing. After that hearing the case record becomes open, unless the judge issues a written order otherwise. **[Note: Certain reports to the court under I.C. § 20-520(i), I.C. § 20-511(a), and ICAR 32(g)(17) are confidential even when the record is otherwise open.]** If the juvenile has been found guilty of an offense that would be criminal if committed by an adult, the juvenile's name, the offense and the disposition are open to the public, even if the case record has been ordered closed. Please note also that closed juvenile records may be made available by the judge to specified school officials upon written request.

12.15 JUVENILE SEX OFFENDER REGISTRATION

With respect to a juvenile sex offender sentenced to probation without a period of detention, the court shall provide at the time of sentencing written notification of the duty to register. The written notification shall be a form provided by the Idaho State Police and shall be signed by the juvenile and the parents or guardian of the juvenile. One (1) copy shall be retained by the court, one (1) copy shall be provided to the offender, and one (1) copy shall be submitted within three (3) working days to the central registry. (I.C. § 18-8405)

Clerical duties upon detention/probation:

1. Obtain a supply of SOR-1 Notification and Initial Registration Forms from the Department of Law Enforcement (208) 884-7305.
2. The court official conducting the notification/registration must ensure that the appropriate data fields on the form are complete and that the defendant/offender has read and signed the form. (instructions are on the back of the form)
3. Send the original SOR-1 to the Department of Law Enforcement, P. O. Box 700, Meridian, Idaho 83680-0700 within three working days.
4. File stamp the yellow copy of the SOR-1 and enter in ROA.
5. Give the pink copy of the SOR-1 to the defendant/offender.

Note: If the juvenile is committed to the custody of the Department of Juvenile Corrections, the Department has the responsibility of giving notice to the offender of the sex offender registry requirement.

Clerical Duties:

1. File stamp the order of expungement of the juvenile case.
2. Enter the order on the ROA
3. Make certain that all fines/fees/restitution have been paid, or “adjusted off “ per order of the court. (No changes can be made to the case after it is expunged.)
4. Make certain that probation (if any) is marked as completed, and any other sentencing options are marked completed.
5. Close the Case in ISTARs
6. From the menu bar on the top click “Cases”
7. From the drop down menu select “Expunge Case”
8. Enter the case type and case number of the case being expunged.
9. Click “Retrieve”
10. As you go through the process ISTARs will warn you that this cannot be “undone” so if you are certain that the case is to be expunged proceed through the warnings. The defendant name on the case will appear as “Expunged” and no reference will remain in the electronic file to the original defendant/juvenile name.
11. The “**physical file**” or record is to be removed from the normal repository location, sealed, placed in a different location, and indexed in a separate index for expunged cases. This location is to be secure, and not accessible to the public or anyone who is not in a supervisory position. The Index for the expunged records is also to be kept in the same secure location.

A copy of the order for expungement is to be forwarded to other agencies which may have received notice of the original conviction i.e. BCI, ITD, Local Law enforcement, prosecutors. It is the obligation of each agency to take the appropriate necessary steps to expunge the case information from their system.