



I.J.R. 26. Discretionary Waiver of Jurisdiction Under the Juvenile Corrections Act

Idaho Juvenile 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 order that an initial appearance on the criminal complaint be held pursuant to I.C.R. 5.



(e) Before sentencing, a juvenile under the age of 18 may not be held in a jail or lockup for adults unless a court finds, after a hearing and in writing, that it is in the interest of justice. In determining whether it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults, or have sight or sound contact with adult inmates, a court shall consider:

1. the age of the juvenile;
2. the physical and mental maturity of the juvenile;
3. the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
4. the nature and circumstances of the alleged offense;
5. the juvenile's history of prior delinquent acts;
6. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
7. any other relevant factor.

(Adopted March 8, 1999, effective July 1, 1999; amended April 28, 2022, effective July 1, 2022.)

Source URL: <https://isc.idaho.gov/ijr26>