

Proposed Amendments to Idaho Juvenile Rules 10A and 10B

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

I.J.R. 10.A. Transfer of Probation for Courtesy Supervision. (J.C.A.)

(a) ~~The dispositional/supervising~~ A court, ~~as the sending court,~~ at sentencing or at any time during a probationary period, may enter an order transferring a juvenile probationer's terms of probation for courtesy supervision to a ~~receiving court~~ probation office in another county within the State of Idaho if:

(1) the ~~sending~~ court determines, upon good cause shown, that the juvenile resides, or intends to reside, with a parent or legal guardian/legal custodian, or in a placement at a residential treatment facility, or a foster home, in the receiving county; ~~and,~~

(2) the juvenile retains community ties with the county of the sending court through continued maintaining of a residence by a parent or legal guardian/legal custodian, or the continued pendency of a C.P.A. proceeding therein; and

(3) transfer of probation for courtesy supervision is in the best interest of the juvenile and the prompt administration of the court's business.

(b) Transfer of probation ~~to the receiving court~~ for courtesy supervision shall be temporary, for a period not exceeding six months unless extended by the ~~sending court,~~ ~~and certified copies of the sentencing decree, court minutes, reports, assessments and other pertinent records shall be transferred to the receiving court, the originals of which shall be retained by the sending court.~~

(c)

(1) Prior to transfer of probation for courtesy supervision, the ~~sending~~ court shall order that all imposed sentencing penalties of detention/jail days yet to be completed by the juvenile probationer shall be served and the costs therefore recovered, in the sending county, unless prior thereto, the ~~receiving court~~ agrees in writing to allow the juvenile to serve ~~said~~ the penalties in the receiving county, the costs of which is to be recovered in the receiving county there. ~~Any sentencing penalties of detention/jail days that are unscheduled or held at the discretion of the court may be imposed by the receiving court and the cost therefore recovered in the receiving county.~~

(2) Any order transferring probation for courtesy supervision shall include a requirement that the juvenile probationer shall comply with any groups or programs in the receiving county which are consistent with the ~~sending~~ court's order of probation and ~~deemed appropriate by the receiving court.~~

~~(d) Upon receipt of an order transferring probation for courtesy supervision, the receiving court shall determine the type of supervision and services available in the receiving county which are most consistent with, but not more restrictive than, the transferred order of probation and shall enter an order requiring the juvenile probationer to comply with said supervision and services in the receiving county.~~

(d-e)

(1) The court in the sending county shall retain jurisdiction over the juvenile proceedings. Any motion for violation of probation alleged to have occurred while a juvenile is on courtesy supervision shall be filed by the prosecuting attorney of the sending county, supported by affidavit of any juvenile court officer or other person with knowledge of said violation, and shall be adjudicated by the court of the sending county.

(2) Any substantive charges including status offenses, misdemeanors or felonies, alleged to have been committed in the receiving county or any other county by a juvenile probationer while on courtesy supervision shall be brought by the prosecuting attorney of the county where the crime allegedly occurred and adjudicated by the juvenile court in that county.

(3) Any victim notification requirements shall be the responsibility of the prosecuting attorney having the duty to initiate the proceedings set forth herein.

~~(fe)~~ The ~~sending~~ court shall have the sole authority to extend, revoke or terminate early the probationary order of any juvenile being supervised in the receiving county under a six-month period of courtesy supervision. In reaching its decision, the ~~sentencing/sending~~ court shall set a review hearing prior to the expiration of the six-month period and consider any requests and reports submitted by the receiving county, and any extension of courtesy supervision shall be for an additional period not exceeding six months; provided, no such extension shall exceed the duration of probation ordered at sentencing.

~~(gf)~~ Any restitution ordered to victims must be determined by the juvenile court of the county where the offense occurred pursuant to Idaho Juvenile Rule 10(h). In cases transferred for

courtesy supervision, the monitoring of the receipt of payments for restitution, as well as other payments for fees owed to the sending county, shall be the responsibility of the sending court. Any motion for a probation violation for nonpayment of fees, including restitution, must be pursued, ~~per subsection (5) of this rule~~, in the sending county. Repayment for fees incurred in the receiving county shall be handled by the receiving ~~court~~ county.

(hg)

(1) A juvenile probationer under a suspended commitment for secure confinement with the Department of Juvenile Corrections, may be transferred by the ~~sending court to the receiving court~~ only under the terms of an order for courtesy supervision. Any motion for a probation violation must be pursued, ~~per subsection (5) of this rule~~, in the sending county.

(2) Any non-secure placement of a juvenile committed to the Department of Juvenile Corrections, while the juvenile remains under the custody of the Department, in a county other than the sentencing county, shall be the responsibility of the Department and not deemed to be a courtesy supervision.

(3) In the event that a juvenile is released from the custody of the Department of Juvenile Corrections to a placement outside of the sentencing county, the sentencing court shall hold a hearing pursuant to Idaho Juvenile Rule 20 to determine whether to transfer probationer for courtesy supervision under this rule.

~~(i) The receiving court shall not refuse transfer of a juvenile probationer for courtesy supervision, except as set forth in Idaho Juvenile Rule 10(c).~~

~~(j) The receiving court shall assume jurisdiction of a juvenile hereunder when the order transferring probation for courtesy supervision is received.~~

(h ~~k~~) The order transferring probation for courtesy supervision shall substantially conform to the follow form:

[Click here](#) [1] for form.

Idaho Juvenile Rule 10B. Transfer of Probation in its Entirety. (J.C.A.)

(a) The dispositional/supervising court, as the sending court at sentencing, or at any time during a probationary period, may enter an order transferring the entirety of a juvenile probationer's terms of probation to a receiving court in another county within the State of Idaho if:

(1) the sending court determines, upon good cause shown, that the juvenile resides, or intends to reside, with a parent or legal guardian/legal custodian in the receiving county; and

(2) the juvenile retains no further community ties with the county of the sending court because residency by a parent or legal guardian/legal custodian there has ceased ; and

(3) transfer of probation in its entirety is in the best interest of the juvenile and the prompt administration of the court's business.

(b) Transfer of probation in its entirety to the receiving court shall be deemed permanent, and all original documents and records therein shall be transferred to the receiving court pursuant to Idaho Juvenile Rule 10(d).

(c) The sending and receiving courts involved in any transfer of probation in its entirety shall follow the requirements and procedures set forth in Idaho Juvenile Rule 10A(c) ~~and (d)~~.

(d) Any motion for violation of probation alleged to have occurred after an order transferring probation in its entirety has been entered by the sending court shall be filed by the prosecuting attorney of the receiving county, supported by affidavit, and shall be adjudicated by the court of the receiving county.

(e) Any county receiving the transfer of probation in its entirety from the sending county, or assuming the supervision of the probation in its entirety under subsection (f) below, shall be deemed to be the county of residence of the juvenile probationer. Any substantive charges alleged to have been committed thereafter by the juvenile probationer shall be petitioned, adjudicated and sentenced pursuant to Idaho Juvenile Rule 10.

(f) At the six-month review hearing regarding courtesy supervision set forth in Rule 10A(~~f~~ e), or at any other time, the sending court may enter an order transferring probation in its entirety, or the receiving court may enter an order, upon its own motion, assuming the supervision of probation in its entirety if the actual residence of the juvenile in the receiving county is found to be stable and permanent, and it is in the best interest of the juvenile and the prompt administration of justice.

(g) Any non-payment of fees, including restitution, owed in the sending county by the juvenile probationer whose probation has been transferred in its entirety to, or assumed in its entirety by, the receiving county may be pursued by a motion for violation of probation in the receiving county or a motion for contempt filed in the sending or receiving county.

(h) No order transferring probation in its entirety by the sending court, nor order assuming supervision of probation in its entirety by the receiving court, shall be entered regarding any juvenile probationer who is under a suspended commitment for secure confinement with the Department of Juvenile Corrections.

(i) The duration of any probationary period transferred or assumed in its entirety hereunder shall be solely determined by the receiving court.

(j) The receiving court shall not refuse transfer of probation in its entirety, except as set forth in Rule 10(c).

(k) The receiving court shall assume jurisdiction of a juvenile hereunder when the order transferring probation in its entirety is received from the sending county or when the order assuming the supervision of probation is entered by the receiving court.

(l) The order transferring probation in its entirety, or assuming supervision of probation in its entirety shall substantially conform to the following form:

[Click here](#) for form.