

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 28

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-501, IDAHO
2 CODE, TO REVISE LEGISLATIVE INTENT AND TO MAKE TECHNICAL CORRECTIONS;
3 AMENDING SECTION 20-502, IDAHO CODE, TO DEFINE TERMS, TO REVISE DEFINI-
4 TIONS, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-1202,
5 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 20-501, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 20-501. LEGISLATIVE INTENT. (1) It is the policy of the state of Idaho
11 that the juvenile corrections system will be based on the following princi-
12 ples: accountability~~r,~~ community protection~~r,~~ and competency development.
13 Where a juvenile has been found to be within the purview of the juvenile cor-
14 rections act, the court shall impose a sentence that will protect the com-
15 munity, hold the juvenile offender accountable for his actions, and assist
16 the juvenile offender in developing skills to become a contributing member
17 of a diverse community. It is the further policy of the state of Idaho that
18 the parents or other legal guardians of the juvenile offender participate in
19 the accomplishment of these goals through participation in counseling and
20 treatment designed to develop positive parenting skills and an understand-
21 ing of the family's role in the juvenile offender's behavior. It is the fur-
22 ther intent of the legislature that the parents of the juvenile offender be
23 held accountable, where appropriate, through monetary reimbursement for su-
24 pervision and confinement of the juvenile offender~~r,~~ and restitution to vic-
25 tims of the juvenile offender's delinquent acts. In enacting this legis-
26 lation, the legislature finds that the juvenile corrections system should
27 encompass the following aspects: diversion, day treatment, community pro-
28 grams, observation and assessment programs, probation services, secure fa-
29 cilities, ~~after-care~~ aftercare, and assistance to counties for juvenile of-
30 fenders not committed to the custody of the department of juvenile correc-
31 tions.

32 (2) The following is a brief description of what the legislature in-
33 tends to become the components of Idaho's juvenile corrections system:

34 (a) Diversion. An alternative to formal prosecution of a juvenile of-
35 fense. Diversions seek to hold a juvenile accountable for his actions
36 through various interventions while redirecting youth away from formal
37 processing in the juvenile justice system.

38 (b) Probation. Probation officers ~~would~~ have twenty-four (24) hour on-
39 call responsibility for juvenile offenders and ~~would~~ monitor their ac-
40 tivities on a continual basis. Probation officers ~~would be~~ are respon-
41 sible for assisting juvenile offenders and their families in accessing
42 counseling or treatment resources, close supervision of juvenile of-

1 offenders' activities, supervision of restitution, and coordination of
2 other services provided to juvenile offenders. Juvenile offenders or-
3 dered into the custody of the department of juvenile corrections would
4 be monitored by a county probation officer.

5 (c) Day treatment. Day treatment programs ~~would be~~ are time-limited
6 nonresidential treatment and educational programs. Included in these
7 programs ~~would~~ may be trackers who ~~would~~ provide intensive supervision
8 of juvenile offenders through daily contact and by counseling juvenile
9 offenders regarding employment, education, courts, family, and life
10 skills. Nonresidential alcohol and drug programs ~~would~~ provide outpa-
11 tient assessment and counseling for juvenile offenders with substance
12 abuse problems.

13 (d) Community programs. It is intended that community programs ~~would~~
14 will exist throughout the state to provide ~~twenty-four (24) hour~~ res-
15 idential supervision and treatment options to juvenile offenders in
16 close proximity to their families and their community. It is intended
17 that these programs ~~would~~ will strengthen the juvenile offender's rela-
18 tionship with family, engender a commitment to school and employment,
19 promote the development of competency and life skills, and help juve-
20 nile offenders generalize appropriate behavior into their environment.

21 (e) Observation and assessment. Regional observation and assessment
22 centers ~~would be~~ are provided, either directly or on a contract basis,
23 to conduct observation and assessment of the juvenile offender in a
24 short-term residential experience. It is intended that these programs
25 would maintain standardized home and daily routines with intensive
26 daily programming.

27 (f) Secure facilities. Secure facilities ~~would~~ provide secure con-
28 finement, discipline, education and treatment of the most seriously
29 delinquent juvenile offenders. Programs at the secure facilities ~~would~~
30 be are designed to help juvenile offenders recognize accountability for
31 delinquent behavior by confronting and eliminating delinquent norms,
32 criminal thinking, and antisocial behavior and by making restitution to
33 victims through community service or other restitution programs.

34 (3) It is the further intent of the legislature that the primary purpose
35 of this act is to provide a continuum of programs ~~which~~ that emphasize the ju-
36 venile offender's accountability for his actions while assisting him in the
37 development of skills necessary to function effectively and positively in
38 the community in a manner consistent with public safety. These services and
39 programs will individualize treatment and control of the juvenile offender
40 for the benefit of the juvenile offender and the protection of society. It is
41 legislative intent that the department of juvenile corrections be operated
42 within the framework of the following principles to accomplish this mission:

43 (1a) Provide humane, disciplined confinement to a juvenile offender
44 who presents a danger to the community.

45 (2b) Strengthen opportunities for the juvenile offender's development
46 of competency and life skills by expanding the juvenile offender's ac-
47 cess to applicable programs and community resources.

48 (3c) Hold juvenile offenders accountable for their delinquent behavior
49 through such means as victim restitution, community service programs
50 and the sharing of correctional costs.

1 (4d) Invoke the participation of the juvenile offender's parent or
 2 legal guardian in assisting the juvenile offender to recognize and ac-
 3 cept responsibility for his delinquent or other antisocial behavior and
 4 hold the parent accountable, where appropriate, through the payment of
 5 detention costs and restitution to victims and through attendance at
 6 programs for the development of positive parenting skills designed to
 7 promote a functional relationship between the juvenile offender and his
 8 family.

9 (5e) Develop efficient and effective juvenile correctional programs
 10 within the framework of professional correctional standards, legisla-
 11 tive intent and available resources.

12 (6f) Provide for a diversity of innovative and effective programs
 13 through research on delinquent behavior and the continuous evaluation
 14 of correctional programs. Innovative and effective programs should be
 15 evidence-based, as demonstrated through empirical research.

16 (7g) Assist counties in developing meaningful programs for juvenile
 17 offenders who have come into the juvenile corrections system but who
 18 have not been committed to the custody of the department of juvenile
 19 corrections.

20 (8h) Provide programs to increase public awareness of the mission of
 21 the juvenile corrections system and to encourage public participation
 22 in developing an effective juvenile corrections system designed to aid
 23 in reducing juvenile crime in this state.

24 (9i) Develop and maintain a statewide juvenile offender information
 25 system.

26 SECTION 2. That Section 20-502, Idaho Code, be, and the same is hereby
 27 amended to read as follows:

28 20-502. DEFINITIONS. When used in this chapter, unless the context
 29 otherwise requires:

30 (1) "Adult" means a person eighteen (18) years of age or older.

31 (2) "Assessment" means a comprehensive and individualized examination
 32 of the mental health, substance use, or other needs for a juvenile that typi-
 33 cally results in treatment interventions and recommendations.

34 (3) "Commit" means to transfer legal custody.

35 (34) "Community-based program" means an in-home confinement program or
 36 a nonsecure or staff-secure residential or nonresidential program operated
 37 to supervise and provide competency development to juvenile offenders in the
 38 least restrictive setting, consistent with public safety, operated by the
 39 state or under contract with the state or by the county.

40 (45) "Court" means any district court within the state of Idaho, or mag-
 41 istrate's division thereof.

42 (56) "Department" means the state department of juvenile corrections.

43 (67) "Detention" means the temporary placement of juvenile offenders
 44 who require secure custody for their own or the community's protection in
 45 physically restricting facilities.

46 (78) "Director" means the director of the department of juvenile cor-
 47 rections.

48 (89) "Diversion" means ~~the utilization of local community resources,~~
 49 ~~churches, counseling for the juvenile offender and/or family, substance~~

1 ~~abuse counseling, informal probation, community service work, voluntary~~
 2 ~~restitution, or any other available service or program as an alternative to~~
 3 ~~the filing of a petition with the juvenile court~~ an alternative to formal
 4 prosecution of a juvenile offense. Diversion describes intervention ap-
 5 proaches that redirect juveniles away from formal court processing in the
 6 juvenile justice system while applying the principles of the balanced ap-
 7 proach and restorative justice. Diversion strategies take place at arrest,
 8 referral, intake, or prior to or after the filing of a petition and should
 9 provide the same array of services as formal court processing, except for
 10 detention. Diversion may be appropriate for low-risk or moderate-risk of-
 11 fenders as informed by results of a valid screening instrument.

12 (910) "Judge" means a district judge or a magistrate.

13 (101) "Juvenile" means a person less than eighteen (18) years of age or
 14 who was less than eighteen (18) years of age at the time of any alleged act,
 15 omission or status.

16 (112) "Juvenile correctional center" means any state-operated residen-
 17 tial facility or facility operated pursuant to a contract with the state that
 18 provides twenty-four (24) hour supervision and confinement for juvenile of-
 19 fenders committed to the custody of the department.

20 (123) "Juvenile detention center" means a secure facility established
 21 pursuant to sections 20-517 and 20-518, Idaho Code, and in compliance with
 22 IDAPA 05.01.02.

23 (134) "Juvenile offender" means a person under the age of eighteen (18)
 24 years at the time of any act, omission or status and who has been adjudicated
 25 as being within the purview of this chapter.

26 (145) "Legal custody" means the relationship created by the court's de-
 27 cree ~~which~~ that imposes upon the custodian responsibilities of physical pos-
 28 session of the juvenile offender, the duty to protect, train and discipline
 29 him and to provide him with food, shelter, education and ordinary medical
 30 care.

31 (156) "Legal guardian" means a person appointed as guardian of a minor
 32 under the laws of Idaho. For the purposes of this chapter, legal guardian
 33 does not include and shall not be construed to include the owner, operator
 34 or the agent of an owner or operator of a detention center, observation and
 35 assessment center, secure facility, residential facility or other facility
 36 having temporary or long-term physical custody of the juvenile offender.

37 (167) "Observation and assessment program" means any state-operated or
 38 purchased service program responsible for temporary custody of juvenile of-
 39 fenders for observation and assessment.

40 (18) "Screening" means a brief process, typically using a validated
 41 tool to identify juveniles who warrant immediate attention, intervention,
 42 or a more comprehensive assessment. Screening tools help guide and identify
 43 juveniles who might be appropriate for diversion or who need comprehensive
 44 mental health or substance use assessments.

45 (179) "Secure facility" means any architecturally secure residential
 46 facility that provides twenty-four (24) hour supervision and confinement
 47 for juvenile offenders committed to the custody of the department.

48 (1820) "Staff-secure facility" means a nonarchitecturally secure res-
 49 idential facility with awake staff twenty-four (24) hours a day, seven (7)
 50 days a week for intensive supervision of juvenile offenders.

1 (21) "Validated risk/needs assessment" means a validated instrument
 2 that measures a juvenile's criminal risk factors and specific needs that, if
 3 addressed, should reduce the juvenile's likelihood to reoffend.

4 ~~(1922)~~ "Work program" means a public service work project ~~which~~ that em-
 5 ploys juvenile offenders at a reasonable wage for the purpose of reimbursing
 6 victims of the juvenile offender's delinquent behavior.

7 SECTION 3. That Section 39-1202, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 39-1202. DEFINITIONS. For the purposes of this chapter:

10 (1) "Board" means the Idaho board of health and welfare.

11 (2) "Child care" means that care, control, supervision or maintenance
 12 of children for twenty-four (24) hours a day which is provided as an alterna-
 13 tive to parental care.

14 (3) "Child" means an individual less than eighteen (18) years of age who
 15 is not enrolled in an institution of higher education.

16 (4) "Children's agency" means a person who operates a business for the
 17 placement of children in foster homes or for adoption in a permanent home
 18 and who does not provide child care as part of that business. Children's
 19 agency does not include a licensed attorney or physician assisting or pro-
 20 viding natural and adoptive parents with legal services or medical services
 21 necessary to initiate and complete adoptive placements.

22 (5) "Children's camp" means a program of child care at a location away
 23 from the child's home which is primarily recreational and includes the
 24 overnight accommodation of the child and is not intended to provide treat-
 25 ment, therapy or rehabilitation for the child.

26 (6) "Children's institution" means a person who operates a residential
 27 facility for children not related to that person if that person is an indi-
 28 vidual, for the purpose of providing child care. Children's institutions
 29 include, but are not limited to, foster homes, maternity homes, children's
 30 therapeutic outdoor programs, or any facilities providing treatment, ther-
 31 apy or rehabilitation for children. Children's institutions do not include:
 32 (a) facilities which provide only daycare as defined in chapter 11, title 39,
 33 Idaho Code; (b) facilities and agencies including hospitals, skilled nurs-
 34 ing facilities, intermediate care facilities, and intermediate care facili-
 35 ties for people with intellectual disabilities licensed pursuant to chapter
 36 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an ad-
 37 visory capacity, counseling a child in a religious context, and providing no
 38 child care associated with the advice; (e) the occasional or irregular care
 39 of a neighbor's, relative's or friend's child or children by a person not or-
 40 dinarily engaged in child care.

41 (7) "Children's residential care facility" means a children's institu-
 42 tion, excluding:

43 (a) Foster homes;

44 (b) Residential schools;

45 (c) Children's camps.

46 No facility expressly excluded from the definition of a children's institu-
 47 tion is included within the definition of a children's residential care fa-
 48 cility.

1 (8) "Children's therapeutic outdoor program" is a program which is de-
2 signed to provide behavioral, substance abuse, or mental health services to
3 minors in an outdoor setting. This does not include children's camps, church
4 camps, or other outdoor programs primarily designed to be educational or
5 recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

6 (9) "Continued care" means the ongoing placement of an individual in a
7 foster home, children's residential care facility, or transitional living
8 placement who reaches the age of eighteen (18) years but is less than twenty-
9 one (21) years of age.

10 (10) "Day school" means a public, private, parochial or secular facil-
11 ity offering an educational program in which the children leave the facility
12 each day at the conclusion of the academic, vocational or school supervised
13 activities.

14 (11) "Department" means the state department of health and welfare.

15 (12) "Director" means the director of the department of health and wel-
16 fare.

17 (13) "Foster care" means child care by a person not related to the child,
18 in lieu of parental care, in a foster home.

19 (14) "Foster home" means a home which accepts, for any period of time,
20 with or without compensation, one (1) or more children who are not related
21 to the foster parent as members of the household for the purpose of providing
22 substitute parental care.

23 (15) "Group care" means foster care of a number of children for whom
24 child care in a family setting is not available or appropriate, in a dormi-
25 tory or cottage type setting, characterized by activities and discipline of
26 a more regimented and less formal nature than found in a family setting.

27 (16) "Juvenile detention" is as defined in section 20-502(~~67~~), Idaho
28 Code, of the juvenile corrections act.

29 (17) "Juvenile detention center" means a facility established pursuant
30 to sections 20-517 and 20-518, Idaho Code.

31 (18) "Person" includes any individual, group of individuals, associa-
32 tion, partnership, limited liability company or corporation.

33 (19) "Placement" means finding a suitable licensed foster home or suit-
34 able adoptive home for a child and completing the arrangements for a child to
35 be accepted into and adjusted to such home.

36 (20) "Relative" means a child's grandparent, great grandparent, aunt,
37 great aunt, uncle, great uncle, brother-in-law, sister-in-law, first
38 cousin, sibling and half-sibling.

39 (21) "Representative" means an employee of the state department of
40 health and welfare.

41 (22) "Residential facility" means any facility where child care is pro-
42 vided, as defined in this section, and which provides day and night accommo-
43 dation.

44 (23) "Residential school" means a residential facility for children
45 which:

46 (a) Provides a planned, scheduled, regular, academic or vocational
47 school program for students in the elementary, middle or secondary
48 grades as defined in section 33-1001, Idaho Code; and

- 1 (b) Provides services substantially comparable to those provided in
2 nonresidential public schools where the primary purpose is the educa-
3 tion and academic pursuits of the students; and
4 (c) Does not seek, receive or enroll students for treatment of such spe-
5 cial needs as substance abuse, mental illness, emotional disturbance,
6 developmental disability or intellectual disability; and
7 (d) Is not:
8 (i) A college or university; or
9 (ii) A children's camp as defined in this section; or
10 (iii) A public or private day school in which the children leave
11 the facility each day at the conclusion of the academic, voca-
12 tional and school supervised activities.
13 (24) "Transitional living" means living arrangements and aftercare
14 services for children, or as continued care, to gain experience living on
15 their own in a supportive and supervised environment prior to emancipation.