

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 452

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-509, IDAHO  
2 CODE, TO REVISE PROVISIONS REGARDING DETENTION OF A JUVENILE IN A JAIL  
3 OR LOCKUP FOR ADULTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-  
4 TION 20-518, IDAHO CODE, TO REVISE A PROVISION REGARDING STANDARDS FOR  
5 DETENTION, TO PROVIDE A CORRECT RULE REFERENCE, AND TO MAKE TECHNICAL  
6 CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE  
7 DATE.  
8

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

10 SECTION 1. That Section 20-509, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR  
13 SCHOOLS ~~AND~~ -- OFFENDERS. (1) Any juvenile, age fourteen (14) years to age  
14 eighteen (18) years, who is alleged to have committed any of the following  
15 crimes or any person under age fourteen (14) years who is alleged to have  
16 committed any of the following crimes and, pursuant to section 20-508, Idaho  
17 Code, has been ordered by the court to be held for adult criminal proceed-  
18 ings:

- 19 (a) Murder of any degree or attempted murder;  
20 (b) Robbery;  
21 (c) Rape as defined in section 18-6101, Idaho Code;  
22 (d) Forcible sexual penetration by the use of a foreign object;  
23 (e) Infamous crimes against nature, committed by force or violence;  
24 (f) Mayhem;  
25 (g) Assault or battery with the intent to commit any of the ~~above~~ seri-  
26 ous felonies provided in this section;  
27 (h) A violation of the provisions of section 37-2732(a) (1) (A), (B) or  
28 (C), Idaho Code, when the violation occurred on or within one thousand  
29 (1,000) feet of the property of any public or private primary or sec-  
30 ondary school, or in those portions of any building, park, stadium or  
31 other structure or grounds ~~which that~~ were, at the time of the viola-  
32 tion, being used for an activity sponsored by or through such a school;  
33 (i) Arson in the first degree and aggravated arson;

34 shall be charged, arrested and proceeded against by complaint, indictment  
35 or information as an adult. All other felonies or misdemeanors charged in  
36 the complaint, indictment or information, ~~which that~~ are based on the same  
37 act or transaction or on one (1) or more acts or transactions as the violent  
38 or controlled substances offense shall similarly be charged, arrested and  
39 proceeded against as an adult. Any juvenile proceeded against pursuant to  
40 this section shall be accorded all constitutional rights, including bail and  
41 trial by jury, and procedural safeguards as if that juvenile were an adult  
42 defendant.

1           (2) ~~Once a~~ A juvenile who has been formally charged or indicted pursuant  
 2 to this section or has been transferred for criminal prosecution as an adult  
 3 pursuant to the waiver provisions of section 20-508, Idaho Code, or this sec-  
 4 tion, the juvenile shall not be held in a county jail or other adult prison  
 5 facility lockup for adults unless the a court, after finding good cause, or-  
 6 ders otherwise finds, after a hearing and in writing, that it is in the inter-  
 7 est of justice.

8           (a) In determining whether it is in the interest of justice to permit  
 9 a juvenile to be held in any jail or lockup for adults or have sight or  
 10 sound contact with adult inmates, a court shall consider:

11           (i) The age of the juvenile;

12           (ii) The physical and mental maturity of the juvenile;

13           (iii) The present mental state of the juvenile, including whether  
 14 the juvenile presents an imminent risk of self-harm;

15           (iv) The nature and circumstances of the alleged offense;

16           (v) The juvenile's history of prior delinquent acts;

17           (vi) The relative ability of the available adult and juvenile de-  
 18 tention facilities not only to meet the specific needs of the juve-  
 19 nile but also to protect the safety of the public as well as other  
 20 detained youth; and

21           (vii) Any other relevant factor.

22           (b) If a court determines pursuant to this subsection that it is in the  
 23 interest of justice to permit a juvenile to be held in any jail or lockup  
 24 for adults:

25           (i) The court shall hold a hearing not less frequently than once  
 26 every thirty (30) days to review whether it is still in the inter-  
 27 est of justice to permit the juvenile to be so held or have such  
 28 sight or sound contact; and

29           (ii) The juvenile shall not be held in any jail or lockup for  
 30 adults or permitted to have sight or sound contact with adult in-  
 31 mates for more than one hundred eighty (180) days unless the court,  
 32 in writing, determines there is good cause for an extension or the  
 33 juvenile expressly waives this limitation.

34           (3) Except as otherwise allowed by subsection (4) of this section,  
 35 once a juvenile offender has been found to have committed the offense for  
 36 which the juvenile offender was charged, indicted or transferred pursuant  
 37 to this section or section 20-508, Idaho Code, or has been found guilty or  
 38 pled guilty to a lesser offense or amended charge growing out of or included  
 39 within the original charge, whether or not such lesser offense or amended  
 40 charge is included within the acts enumerated in subsection (1) of this sec-  
 41 tion, the juvenile offender shall thereafter be handled in every respect as  
 42 an adult. For any subsequent violation of Idaho law, the juvenile offender  
 43 shall be handled in every respect as an adult.

44           (4) Upon the conviction of a juvenile offender pursuant to this sec-  
 45 tion, the sentencing judge may, if a finding is made that adult sentencing  
 46 measures would be inappropriate:

47           (a) Sentence the convicted person in accordance with the juvenile sen-  
 48 tencing options set forth in this chapter; or

49           (b) Sentence the convicted person to the county jail or to the custody  
 50 of the state board of correction but suspend the sentence pursuant to

1 section 19-2601A, Idaho Code, and commit the defendant to the dual cus-  
2 tody of the department of juvenile corrections and the state board of  
3 correction.

4 SECTION 2. That Section 20-518, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 20-518. STANDARDS FOR DETENTION. The following shall be minimum stan-  
7 dards for the detention of juveniles provided for in section 20-517, Idaho  
8 Code:

9 (1) Juvenile detention centers must be so constructed and/or main-  
10 tained as to keep juveniles segregated from adult offenders, with ~~there to be~~  
11 no contact as to sight and/or sound between the two (2) classes. Those juve-  
12 niles being treated as adult offenders pursuant to section 20-508 or 20-509,  
13 Idaho Code, ~~may~~ shall be housed in a juvenile detention center ~~if so unless~~  
14 otherwise ordered by the court. Such juveniles may be housed in the general  
15 juvenile population without sight and sound separation if it is determined  
16 by the detention administration that the safety and security of the other  
17 juveniles would not be at risk.

18 (2) Juvenile detention centers must provide supervision and observa-  
19 tion of juveniles sufficient to protect the physical and mental health of the  
20 detainees.

21 (3) Juveniles held in detention must be provided with at least three (3)  
22 adequate and nutritional meals per day.

23 (4) Juveniles held in detention must have access to reading materials  
24 on a regular and systematic basis. Detained juveniles may receive books,  
25 newspapers, and periodicals from any source, including delivery to the de-  
26 tention center by family members, subject to the right of detention author-  
27 ities to inspect and remove dangerous or harmful materials. Detention au-  
28 thorities may forbid the introduction into holding quarters of obscene books  
29 or periodicals.

30 (5) A visiting program shall be established in juvenile detention cen-  
31 ters ~~which that~~ will allow for family visits to each juvenile for at least two  
32 (2) hours each week.

33 (6) The juvenile detention center shall meet the standards and rules  
34 set forth in IDAPA 05.01.02 and IDAPA 11.11.021.

35 (7) Notwithstanding any other provision in this chapter, the minimum  
36 standards set forth herein shall not apply to any person who attains his or  
37 her eighteenth birthday prior to beginning or while in detention. When such  
38 person attains his or her eighteenth birthday, he or she shall be transferred  
39 from juvenile detention to the county jail.

40 SECTION 3. An emergency existing therefor, which emergency is hereby  
41 declared to exist, this act shall be in full force and effect on and after  
42 July 1, 2022.