

Dear Senators DARRINGTON, Richardson & Burkett, and
Representatives CLARK, Leon Smith & Boe:

The Office of the Legislative Services, Research and Legislation, has received the
enclosed rules of the Idaho State Police:

IDAPA 11.11.05 - Rules of the Idaho Peace Officer Standards & Training

Council for Idaho Dept. Of Juvenile Corrections Direct Care Staff

(Docket #11-1105-0801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 5-9-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 6-6-08.

_____The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Admin. Committee

FROM: Research & Legislation Analyst - Katharine Gerrity

DATE: April 22, 2008

SUBJECT: Idaho State Police

IDAPA 11.11.05 - Rules of the Idaho Peace Officer Standards and Training Council for Idaho Department of Juvenile Corrections Direct Care Staff

The Idaho State Police submit notice of a temporary and proposed rule at IDAPA 11.11.05 - Rules of the Idaho Peace Officer Standards and Training Council for Idaho Department of Juvenile Corrections Direct Care Staff. According to the Idaho State Police, the purpose of the rule is to establish the training and certification requirements for the Idaho Department of Juvenile Corrections Direct Care Staff for the proper staffing and operation of the new 24-bed co-occurring disorder unit in Nampa, Idaho due to open in FY 2009.

We have no specific comments regarding the substance of this rule but do note a number of technical corrections that should be made. This chapter is a new chapter and therefore should begin on page one rather than continuing numbering from the previous chapter. In addition, it appears that ISP intended to cite to chapter 11.11.04 in 11.11.05.103.01.b but instead referenced a specified section "of these rules." There are two typographical citation errors in 11.11.05.000.04 which should be corrected. Finally, section numbers should all appear in bold type. The Council has rulemaking authority pursuant to Section 19-5107, Idaho Code.

cc: Idaho State Police
Jeffrey J. Black & Trish Christy

IDAPA 11 - IDAHO STATE POLICE

11.11.05 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR IDAHO DEPARTMENT OF JUVENILE CORRECTIONS DIRECT CARE STAFF

DOCKET NO. 11-1105-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 3, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Establishes the training and certification requirements for Idaho Department of Juvenile Corrections Direct Care Staff.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The training and certification of direct care staff is critical for the proper staffing and operation of the new 24-bed co-occurring disorder unit in Nampa, due to open in FY 2009.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: **N/A**

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: **N/A**

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the affected party drafted the rule and submitted it to POST Council for approval.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2008.

DATED this 17th day of April, 2008.

Jeffrey J. Black
Executive Director
Idaho State Police/Peace Officer Standards and Training
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7251/(208) 884-7295

THE FOLLOWING IS THE TEXT OF DOCKET NO 11-1105-0801

IDAPA 11
TITLE 11
CHAPTER 05

11.11.05 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING
COUNCIL FOR IDAHO DEPARTMENT OF JUVENILE CORRECTIONS DIRECT CARE STAFF

000. LEGAL AUTHORITY.

01. Section 20-504(3), Idaho Code. Pursuant to Section 20-504(3), Idaho Code, the Idaho Department of Juvenile Corrections shall establish and administer all secure residential facilities including all state juvenile corrections centers. (4-3-08)T

02. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the Idaho Department of Juvenile Corrections shall have authority to adopt such administrative rules as are deemed necessary for the functioning of the department and the implementation and administration of the juvenile corrections act. (4-3-08)T

03. Section 20-531(4), Idaho Code. Pursuant to Section 20-531(4), Idaho Code, the Idaho Department of Juvenile Corrections shall adopt standards, policies, and procedures for the regulation and operation of secure facilities. (4-3-08)T

04. Section 19-5109(f6), Idaho Code. Pursuant to Section 19-5109(f6), Idaho Code, the Peace Officer Standards and Training Council may, upon recommendation of the juvenile training council, implement minimum training and certification standards for employees of the department who are engaged in the direct care and supervision of juveniles. (4-3-08)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.11.05, "Rules of the Idaho Peace Officer Standards and Training Council for Idaho Department of Juvenile Corrections Direct Care Staff" IDAPA 11, TITLE 11, Chapter 05. (4-3-08)T

02. Scope. These rules are established to provide the opportunity for all Idaho Department of Juvenile Corrections staff who are engaged in the direct care and supervision of juveniles to receive quality, consistent training to ensure that juveniles in custody receive appropriate care and supervision. (4-3-08)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written statements which might pertain to the interpretations of these rules will be available for public inspection to the extent allowed by Title 9, Chapter 3, Idaho Code, and will be available at the Department of Juvenile Corrections, 400 N. 10th (second floor), P.O. Box 83720, Boise, Idaho 83720-0285. Additional written interpretations are available for public inspection at 700 South Stratford Drive, Meridian, Idaho 83642, P.O. Box 700, Meridian, Idaho 83680-0700. (4-3-08)T

003. ADMINISTRATIVE APPEALS.

Any appeals allowed under these rules shall be governed by the Idaho Administrative Procedure Act and by the IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-3-08)T

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (4-3-08)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Idaho State Police, Peace Officer Standards and Training. The principal place of business of the

Idaho State Police, Peace Officer Standards and Training, is in Meridian, Idaho. The office is located at 700 South Stratford Drive, Meridian, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Peace Officer Standards and Training Academy, P.O. Box 700, Meridian, Idaho 83680-0700. The telephone number of the office is (208) 884-7250. The facsimile number of the office is (208) 884-7295. (4-3-08)T

02. Idaho Department of Juvenile Corrections. The principal place of business of the Idaho Department of Juvenile Corrections is in Boise, Idaho. The office is located at 400 North 10th Street, Second Floor, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Idaho Department of Juvenile Corrections, P.O. Box 83720, Boise, Idaho 83720-0285. The telephone number of the office is (208) 334-5100. The facsimile number of the office is (208) 334-5120. (4-3-08)T

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public record. (4-3-08)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Basic Juvenile Corrections Academy. A basic course of instruction for direct care staff of the Idaho Department of Juvenile Corrections as recognized by POST Council. (4-3-08)T

02. Challenge Exam. A test to determine an IDJC staff's competence for waiver of successful completion of the basic Juvenile Corrections Academy. (4-3-08)T

03. Council. As used in this chapter, refers to the POST Council. (4-3-08)T

04. Department. As used in this chapter, refers to the Idaho Department of Juvenile Corrections, IDJC. (4-3-08)T

05. Director. As used in this chapter, refers to the Director of the Idaho Department of Juvenile Corrections. (4-3-08)T

06. Juvenile Corrections Direct Care Staff. Any full or part-time employee of the department whose primary job duties include providing for the safety, care, education, protection, or supervision of juveniles committed to the custody of the department. Current job titles specifically included in this definition are but are not limited to: Rehabilitation Technician, Rehabilitation Technician Supervisor, Rehabilitation Specialist, Rehabilitation Specialist Associate, Instructor- DJC, Instructor Specialist, Instructor Assistant and Safety and Security Officer. (4-3-08)T

07. Juvenile Training Council. An advisory group to the POST Council that is represented by the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. (4-3-08)T

08. Mandatory Certification. To issue a certificate to an IDJC direct care staff based upon successful completion of the mandatory training requirements established by POST Council. (4-3-08)T

09. Voluntary Certification. To issue a certificate to an IDJC direct care staff based upon successful completion of the voluntary training requirements established by POST Council. (4-3-08)T

011. -- 099.(RESERVED).

100. JUVENILE CORRECTIONS DIRECT CARE STAFF CERTIFICATION.

01. Property. Certificates and awards remain the property of the Council and are only valid as long as the staff is employed by the department in a direct care staff role as defined in subsection 010.06. (4-3-08)T

02. Eligibility. To be eligible for the award of a Basic Juvenile Corrections Direct Care Staff

Certificate, each applicant must be a full or part-time employee of the department in a direct care staff role.(4-3-08)T

03. Applications. All applications for award of the Basic Juvenile Corrections Direct Care Staff Certificate shall be completed on the prescribed form "Application for Certification" as provided by the POST Council. (4-3-08)T

04. Submission. The Application for Certification form must be submitted by the staff/applicant to the applicant's department head. The department head shall forward the application to the Council. Certificates will be issued to the department head for award to the applicant. (4-3-08)T

05. Minimum Standards. Each applicant must meet the minimum standards for employment and training as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," with the exception of height, weight, fitness, and physical disability which standards will be determined by the department. (4-3-08)T

06. Certification. The following dates govern voluntary and mandatory certification. (4-3-08)T

a. From July 1, 2008 through June 30, 2010 any juvenile corrections direct care staff may receive voluntary certification from POST upon successful completion of the requirements outlined in Sections 101 or 102. Earning voluntary certification during this period will satisfy the mandatory requirement in section 06 of these rules. This option will close on June 30, 2010. (4-3-08)T

b. If employed after June 30, 2010 every juvenile corrections direct care staff must be certified by the Peace Officer Standards and Training Council within one (1) year after first being employed unless granted additional time to complete certification by the POST Council as set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 030.16. (4-3-08)T

c. Juvenile corrections direct care staff employed prior to June 30, 2010 shall comply with the training and certification provisions of Section 100 by June 30, 2012, however, the requirement for successful completion of the POST Basic Juvenile Corrections Academy will be waived if the staff scores a minimum of seventy-five percent (75%) on a challenge examination administered by POST and any other requirements for certification. The staff will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If the staff fails both attempts, the staff must successfully complete the POST Basic Juvenile Corrections Academy to be certified. (4-3-08)T

07. Decertification. The Council, may decertify any juvenile corrections direct care staff in the same manner as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 091.03. (4-3-08)T

101. THE BASIC CERTIFICATE.

The following requirements are necessary for award of the basic certificate to hired department direct care staff. (4-3-08)T

01. Probation. The applicant must have completed at least a 1,040 hour satisfactory probationary period with the department (which may include basic training academy time). This period must reflect continuous employment as direct care staff with the department. The probationary period may be extended by the department which could delay certification until the probationary period is completed satisfactorily. This 1,040 hours' time must be continuous with the department when applying for certification. The employment probationary period may not extend over 2,080 hours for certification purposes. (4-3-08)T

02. Basic Training. The applicant must have attended and completed the POST Basic Juvenile Corrections Academy and must have passed the POST juvenile corrections certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination with a minimum score of seventy-five percent (75%). The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an applicant fails both attempts, the applicant must reapply, attend and successfully complete the POST Basic Juvenile Corrections Academy to be certified. (4-3-08)T

03. Juvenile Corrections On the Job Training. Successful completion of forty (40) hours of approved and supervised juvenile corrections training provided by the department is required. Evidence of such training must be submitted by the applicant's employer to POST Council prior to certification. (4-3-08)T

102. CHALLENGE PROCEDURE.

Any juvenile corrections direct care staff employed by the department for a minimum of one (1) year or who has, within the last five (5) years, been employed by another state, county, or the federal government as a juvenile corrections direct care staff or a student who has satisfactorily completed a Basic Juvenile Corrections Academy equivalent to Idaho's POST Basic Juvenile Corrections Academy within the last three (3) years shall be eligible for certification in the state of Idaho without attending the Basic Juvenile Corrections Academy, if approved by the division administrator for the unit in which the staff will be employed, and provided the staff person : (4-3-08)T

01. Documents. Submits a POST Juvenile Corrections Certification Challenge Packet to POST Council, which must include copies of transcripts, certificates, diplomas, or other documents that substantiate the staff's training and experience; (4-3-08)T

02. Examination. Passes the POST juvenile corrections certification examination approved by the Council and administered by a POST Training Specialist, conducted in the manner set forth in Subsection 100.06 or 100.07; (4-3-08)T

03. Training. Attends and passes the Idaho POST Juvenile Corrections Academy's "Appropriate Use of Physical Force"; and attends or passes POST-approved courses in "Legal and Liability Issues"; "Code of Ethical Conduct"; "Prohibition of Abuse of Residents"; "Suicide Prevention"; "Prison Rape Elimination Act"; and "Incident Reporting" training or a POST-approved equivalent; and (4-3-08)T

04. Probation Period. Satisfactorily completes the employment probationary period, as required by Subsection 101.01. (4-3-08)T

05. Challenge Academy The department in order to facilitate the POST certification of its direct care staff may, with the approval of the POST Director, offer academies specific to those topics identified in Section 102.03. In all such cases only POST certified courses will be included and each will be led by POST certified instructors. Juvenile corrections direct care staff approved for participation in the Challenge process may also be provided an opportunity to test for POST certification following successful completion of a challenge academy. All otherwise specified rules concerning POST certification testing will apply in these instances. (4-3-08)T

103. LAPSE OF JUVENILE CORRECTIONS CERTIFICATION.

The certification of any juvenile corrections direct care staff will be considered lapsed if the individual does not serve as a direct care staff for the department or as a POST certified juvenile probation or detention officer in Idaho for two (2) consecutive years. (4-3-08)T

01. Over Two Years. A juvenile corrections staff who has been out of full-time status with the department in a direct care role, or as a certified juvenile detention or probation officer in Idaho, for over two (2) years and whose job requires that s/he be recertified, or who wishes to be recertified, must meet the following POST requirements: (4-3-08)T

a. Submit a POST Certification Correction Challenge Packet; (4-3-08)T

b. Pass the POST juvenile corrections direct care staff certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; administered by a POST Training Specialist: (4-3-08)T

c. Satisfactorily complete a probationary period of not less than 1040 hours of continuous employment in a direct care role with the department. (4-3-08)T

02. Over Three Years. A juvenile corrections staff who has been out of full-time status with the department in a direct care role, or as a certified juvenile detention or probation officer in Idaho, for over three (3)

years must attend the POST Basic Juvenile Corrections Academy in order to earn recertification. The Council may waive this requirement on a showing of good cause by the staff supported by clear and convincing evidence that during a substantial part of the time out of full-time juvenile corrections direct care status, the individual was engaged in an occupation requiring juvenile corrections direct care staff training, skill, and experience. This evidence must be submitted with a POST Certification Correction Challenge Packet. Upon receiving a waiver, the staff must meet the following POST requirements: (4-3-08)T

a. Pass the POST juvenile corrections direct care staff certification examination approved by the Council, conducted in the manner set forth in Subsection 103.02.b. of these rules, administered by a POST Training Specialist: (4-3-08)T

b. Satisfactorily complete a probationary period of not less than 1040 hours of continuous employment in a direct care role with the department. (4-3-08)T

03. Over Five Years. A juvenile corrections staff who has been out of full-time status with the department in a direct care role, or as a certified juvenile detention or probation officer in Idaho, for over five (5) years must attend and pass the POST Basic Juvenile Corrections Academy in order to earn recertification. No waiver of this requirement will be granted by the Council. (4-3-08)T

104. -- 999. (RESERVED).