Dear Senators Lakey, Shippy, Wintrow, and
Representatives Skaug, Alfieri, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Board of Correction - Correctional Industries:

IDAPA 06.01.01 - Rules of the Board of Correction-Notice of Proclamation of Rulemaking (Docket No. 06-0101-2601).

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 11/30/2026. 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 12/28/2026.

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 334-4854, or send a written request to the address on the memorandum attached below.

Terri Kondeff
Director

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Principal Legislative Drafting Attorney - Ryan Bush

DATE: November 12, 2026

SUBJECT: Board of Correction - Correctional Industries

IDAPA 06.01.01 - Rules of the Board of Correction-Notice of Proclamation of Rulemaking (Docket No. 06-0101-2601)

Summary and Stated Reasons for the Rule

The State Board of Correction submits a notice of proclamation of rulemaking at IDAPA 06.01.01 - Rules of the Board of Correction. This rule provides that certain records of the Board shall be exempt from public disclosure and incorporates changes in Idaho Code regarding firing squad being the primary method of execution. The rule shall become effective on December 4, 2026.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted because Section 20-212(1), Idaho Code, exempts the Board from conducting negotiated rulemaking. There is no anticipated fiscal impact associated with this rule.

Statutory Authority

The Board appears to be within its statutory authority as provided in Section 20-212(1), Idaho Code.

cc: Board of Correction - Correctional Industries
Kevin Mickelson

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 06 – BOARD OF CORRECTION

06.01.01 – RULES OF THE BOARD OF CORRECTION

DOCKET NO. 06-0101-2601

NOTICE OF PROCLAMATION OF RULEMAKING

EFFECTIVE DATE: The effective date of the rules in the descriptive summary of this notice is December 4, 2026.

AUTHORITY: Pursuant to Section 20-212(1), Idaho Code, and in compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated rulemaking procedures. Section 20-212 Idaho Code, requires the Idaho State Board of Correction to make rules. Pursuant to Section 20-212(1), Idaho Code, rules of the Idaho State Board of Correction are subject to review of the Idaho State Legislature pursuant to Sections 67-454, 67-5291, and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the Board, except as otherwise specifically provided by statute. These rules become final and effective thirty (30) days after the date of publication in the Idaho Administrative Bulletin.

PUBLIC HEARING SCHEDULE: Pursuant to Section 20-212(1), Idaho Code, public hearings concerning this rulemaking will not be scheduled.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proclamation of rulemaking:

This rulemaking is necessary to reflect current Idaho Department of Correction practices, standards, policies, procedures, and directive. Board of Correction rule changes are summarized by sections as follows:

108. Idaho Public Records Act – This rule is being amended to provide definitions of the criteria relied upon to exempt records from disclosure and to identify additional records that are exempt from public disclosure.

135. Executions – This rule is being amended to incorporate the change in state law designating the firing squad as the primary method of execution. See Idaho Code 19-2716 as amended by H.B. 37, 68th Leg., Reg. Sess. (Idaho 2025)

FEE SUMMARY: This rulemaking does not impose a fee or charge.

FISCAL IMPACT: This rulemaking is not anticipated to have any fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because Section 20-212(1) exempts the Idaho State Board of Correction from conducting negotiated rulemaking.

INCORPORATION BY REFERENCE: This rulemaking does not contain materials incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martina Transue at (208) 658-2000.

DATED this 7th day of October, 2026.

Bree Derrick, Director
Idaho Department of Correction
1299 N. Orchard Street, Suite 110
Boise, Idaho 83706
(208) 658-2000

THE FOLLOWING IS THE TEXT OF PROCLAMATION DOCKET NO. 06-0101-2601
(Only Those Sections With Amendments Are Shown)

06.01.01 – RULES OF THE BOARD OF CORRECTION

108. IDAHO PUBLIC RECORDS ACT.

01. Intent of the Board. It is the intent of the Board that the records of the Department be open to the public for inspection and copying at all reasonable times, unless the records or information contained therein is specifically exempt from disclosure by state or federal statute or court rule. The Board shall implement the exemptions for Department records as set forth in the Idaho Public Records Act. (7-1-21)

02. Public Records Requests. All requests for records of the Department must be submitted in writing to the Transparency Manager at Central Office through the online portal located on the Department's website or by mail. (7-1-21)

03. Custodian of Records. Certain Department employees are designated as official custodians of Department records who may delegate custodian duties and responsibilities to more efficiently process public records requests. For purposes of this section, official custodians for records of the Department are: (7-1-21)

a. The director; (7-1-21)

b. The public information officer; (7-1-21)

c. The ~~central records~~ transparency manager; ~~(7-1-21)~~(12-4-26)

d. The chiefs of the divisions; and (7-1-21)

e. The facility heads. (7-1-21)

04. Records Exempt from Disclosure. ~~In order to protect information consistent with the public's interest in confidentiality, public safety, security, and the habilitation of offenders, pursuant to Section 74-105(4)(a)(i), Idaho Code, the Board has identified records of the Department to be exempt from disclosure in whole or in part. These records include, but are not limited to:~~ In accordance with Section 74-105(4)(a)(i), Idaho Code, records of the Department are exempt from disclosure when the public interest in confidentiality, public safety, security, or the habilitation of offenders clearly outweighs the public interest in disclosure. ~~(7-1-21)~~(12-4-26)

a. When evaluating the release of Department records, the nature of the information contained in the record shall be evaluated within the parameters of the following definitions: (12-4-26)

i. Confidentiality. The protection of information restricted from disclosure by law, rule, court order, privilege, or recognized privacy interest where disclosure would violate or compromise legal protections, privilege, privacy interest, or established expectations of confidentiality. (12-4-26)

ii. Habilitation. The process of supervision, treatment, programming, behavioral intervention, institutional behavior management, or reintegration intended to support lawful behavior, rehabilitation, or successful adjustment within an institution or the community. (12-4-26)

iii. Public Safety. The protection of the public, victims, witnesses, staff, residents, or the community from harm, including protecting information when disclosure may facilitate criminal activity, evasion of supervision, interfere with victim or witness protections, or other threats to public safety. (12-4-26)

iv. Security. The protection of persons, facilities, operations, systems, or information when disclosure, may compromise institutional or operational security, safety, supervision activities, emergency response, or institutional order. (12-4-26)

~~a~~**b.** The Board has identified ~~R~~records of the Department to be exempt from disclosure in whole or in part and delegates authority to the director to exempt other records within these parameters. These records include, but are not limited to: ~~(7-1-21)~~(12-4-26)

i. Records of the Department that define specific building design details, such as facility blueprints; (7-1-21)

ii. Records of the Department that define specific operations used to respond to and control emergencies; (7-1-21)

iii. Records of the Department that define site-specific security operations, such as facility security procedures, site-specific post orders, ~~and~~ security camera locations, numbers, or recordings, investigation techniques and procedures, and transport procedures; ~~(7-1-21)~~(12-4-26)

iv. Records containing information specific to the habilitation of any offender, including information tracking the behavior, progression, or digression of a particular offender, including but not limited to: (12-4-26)

(1) ~~such as c~~Case notes~~.~~; (12-4-26)

(2) ~~s~~Supervision notes~~, and~~; (12-4-26)

(3) ~~p~~Program or treatment records~~.~~; (12-4-26)

(4) Restrictive housing/protective custody records; (12-4-26)

(5) Concern forms; (12-4-26)

(6) Grievances; (12-4-26)

(7) Form 105 notification reports; (12-4-26)

(8) Incident reports; (12-4-26)

(9) Disciplinary offense reports: and (12-4-26)

(10) Drug testing lab reports. (12-4-26)

(11) Notwithstanding this exemption, records of this nature specific to offenders sentenced to death shall be available to counsel of record for offenders sentenced to death, subject to redaction; ~~(7-1-21)~~(12-4-26)

v. Records of an offender when requested by another offender. For purposes of Subsection 108.04 the term offender shall not include a person who has completed their sentence of incarceration or term of probation or parole; (7-1-21)

vi. Offender academic records. Notwithstanding this exemption, consistent with Family Educational Rights and Privacy Act, FERPA, 34 C.F.R. part 99, academic records shall be disclosed to school officials, including teachers, having legitimate educational interests. Further, an offender's academic records shall be disclosed to their attorney of record in their criminal case, provided the attorney first submits a request on their letterhead noting the active case number and a release signed within six (6) months by the offender; (7-1-21)

vii. NCIC and ILETS records, FBI/CIB identification sheets, police reports, and drivers services sheets; (7-1-21)

viii. Medical, counseling and treatment records. Notwithstanding this exemption, an offender's medical, counseling and treatment records shall be disclosed to the offender's attorney of record in their criminal case, or the offender's private professional health care provider, provided that the attorney or the health care provider submits a request for these records on their letterhead and a release signed withing six (6) months by the offender; (7-1-21)

ix. Records identified in Rule 135 related to the Department's duty to carry out an execution pursuant to chapter 27, title 19, Idaho Code; (7-1-21)

x. Records or logs of any person visiting an inmate under Subsection 117.05; (7-1-21)

xi. Inmate trust account information, telephone call records or recordings, personal mail, and electronic messages; (7-1-21)

xii. Offender's GPS records and information. (7-1-21)

~~**b.** Records exempt in part, subject to redaction: (7-1-21)~~

xiii. ~~Records of the Department containing the n~~Names and addresses of confidential informants, or ~~containing~~ information ~~identifying~~ that could reasonably lead to the identity of confidential informants; ~~(7-1-21)~~(12-4-26)

xiv. Department intelligence reports of offender criminal activity~~, that if disclosed would jeopardize public safety, the safety of confidential informants, offenders or staff, or the security of the facility~~;~~(7-1-21)~~(12-4-26)

~~iii. Records that identify or would lead to the identification of a date, time, or a place of future transportation or movement of a prisoner; (7-1-21)~~

xv. Department investigatory records, to the extent that ~~disclosure of such records would interfere with enforcement proceedings, deprive a person of the right to a fair trial or impartial adjudication, disclose the identity of a confidential source or confidential information furnished only by the confidential source, disclose investigative techniques or procedures, or endanger the life or physical safety of any person. This exemption shall not preclude release of the following information:~~ the investigation or any subsequent criminal investigation or proceeding is pending. Investigatory records include all investigation reports, supporting documentation, audio and video recordings, and other information received during the investigation. Investigatory records which may be disclosed after the investigation or proceeding has concluded remain subject to redaction. ~~(7-1-21)~~(12-4-26)

~~(1) The time, date, location, and nature and description of a reported crime, accident or incident; (7-1-21)~~

~~(2) The name, sex, age, and address of a person arrested, except as otherwise provided by law; (7-1-21)~~

~~(3) The time, date, and location of the incident and of the arrest; (7-1-21)~~

~~(4) The crime charged; and (7-1-21)~~

~~(5) Documents given or required by law to be given to the person arrested. (7-1-21)~~

~~**05. Records of Civil Commitments**. Civilly committed individuals may not be convicted of a crime or may be held in a Department facility for reasons other than criminal conviction. Requests for information from the file of a civilly committed individual will be referred to Department legal counsel to determine applicability of federal and state statutes or court rules pertaining to individual privacy and the public's right to know. (7-1-21)~~

xvi. Body-worn camera footage; and (12-4-26)

xvii. Personal address of offender or address where releasing to. (12-4-26)

xviii. Notwithstanding these exemptions, nothing precludes the release of records as aggregate, de-identified data. (12-4-26)

(BREAK IN CONTINUITY OF SECTIONS)

135. EXECUTIONS.

01. Personnel Assigned to Execution. Idaho Maximum Security Institution (IMSI) personnel and the Department's administrative team will carry out the execution warrant. The ~~IMSI facility head (or designee)~~ director shall be the official executioner. ~~(7-1-21)~~(12-4-26)

~~**02. Method of Execution**. Execution of the sentence of death shall be by lethal injection.~~ ~~(7-1-21)~~

0~~3~~2. News Media Coordination. Department personnel will coordinate news media activity and provide logistics and communications support. A news media center shall be established. The pre-execution briefing will be delivered in the news media center. The post-execution briefing will occur in the news media center. News media witnesses will be chosen pursuant to Department procedure. The director or designee will designate a public information officer to respond to execution-related news media requests and releases of information. (7-1-21)

0~~4~~3. Parking and Demonstration Areas Provided. Areas for public and news media parking will be provided and maintained in a secure manner. Areas for public gathering and demonstration of support or opposition to the death penalty will be provided and maintained in a secure manner. (7-1-21)

0~~5~~4. Disclosure. (7-1-21)

a. Disclosure. ~~The director shall determine and prepare written procedures, to be reviewed by the Board, to be used in any execution.~~ The execution procedures determined by the director in accordance with Section 19-2716(6), Idaho Code, shall be made available to the public upon request, except as provided by statute or herein. (12-4-26)

i. Firing Squad Execution. The equipment approved to be used; protocols and procedures related to the preparation of the equipment to be used and administration of the firing squad; staff, contractor, and volunteer training; and qualifications of contractors or volunteers of the firing squad are subject to disclosure. (12-4-26)

ii. Lethal Injection Execution. ~~At a minimum the procedures must address t~~The substance or substances approved to be used, the process to test the composition of the substance or substances to be used, protocols and procedures related to the preparation and administration of the substance or substances to be used, staff, contractor and volunteer training, and qualifications of contractors or volunteers providing medical services~~. Except as provided by section 74-105(4), Idaho Code, and herein, these procedures shall be made available to the public upon request~~ are subject to disclosure. ~~(7-1-21)~~(12-4-26)

b. Non-Disclosure. The Department will not disclose under any circumstance information wherein the director determines disclosure of such information could jeopardize the Department's ability to carry out an execution, including, but not limited to the following: (7-1-21)

i. The identity of the on-site ~~physician~~ emergency medical personnel; ~~(7-1-21)~~(12-4-26)

ii. The identity of staff, contractors, consultants, or volunteers serving on escort, firing squad, or medical teams, and any person or entity that provides technical assistance during the execution process; ~~(7-1-21)~~(12-4-26)

iii. Information that identifies or could lead to the identification of any pharmacy, prescriber, manufacturer, compounder, or other entity that supplies or has supplied any chemicals or substances to the Department of Correction or any entity that provides or has provided medical supplies or services to the Department of Correction. (7-1-21)

0~~6~~5. Persons Allowed in the Execution Unit. The director (or designee) shall have the discretion to determine the number of persons allowed in the execution unit at any time. In exercising this discretion, the director (or designee) shall consider the safe, secure, and orderly operation of the Idaho Maximum Security Institution (IMSI); the interests of the victim's family; and whether multiple death warrants are being executed concurrently. The configuration of the execution unit and the occupants of each room will be in accordance with Department standard operating procedure. (7-1-21)

a. In most instances, the following persons should be allowed in the execution unit: (7-1-21)

i. Administrative Team; (7-1-21)

ii. Escort Team members; (7-1-21)

iii. Firing Squad or Medical Team members; ~~(7-1-21)~~(12-4-26)

iv. ~~On-site physician~~Emergency medical personnel; ~~(7-1-21)~~(12-4-26)

v. Director of the IDOC; (7-1-21)

vi. Idaho Board of Correction representative; (7-1-21)

vii. Chief of the Division of Prisons or designee; (7-1-21)

viii. IMSI Warden or designee; (7-1-21)

ix. Ada County Coroner; (7-1-21)

x. Prosecuting attorney from the county of conviction; (7-1-21)

xi. Sheriff from the county of conviction; (7-1-21)

xii. District judge from the county of conviction; (7-1-21)

xiii. Idaho Governor or ~~representative~~ designee; ~~(7-1-21)~~(12-4-26)

xiv. Idaho Attorney General or ~~representative~~ designee; ~~(7-1-21)~~(12-4-26)

xv. Two (2) members of the victim's family; (7-1-21)

xvi. The spiritual advisor for the condemned person; (7-1-21)

xvii. Two (2) witnesses selected by the condemned person; (7-1-21)

xviii. An attorney of record for the condemned person; (7-1-21)

xix. Four (4) media representatives; (7-1-21)

xx. IDOC liaison for victim families; and (7-1-21)

xxi. IDOC liaison for the condemned. (7-1-21)

b. In the event that any of the persons, to include their designee or representative, identified above, do not wish to attend the execution, the director or designee may approve another individual to attend in that person's place. (7-1-21)