

TITLE 20
STATE PRISON AND COUNTY JAILS

CHAPTER 5
JUVENILE CORRECTIONS ACT

20-501. LEGISLATIVE INTENT. It is the policy of the state of Idaho that the juvenile corrections system will be based on the following principles: accountability; community protection; and competency development. Where a juvenile has been found to be within the purview of the juvenile corrections act, the court shall impose a sentence that will protect the community, hold the juvenile offender accountable for his actions, and assist the juvenile offender in developing skills to become a contributing member of a diverse community. It is the further policy of the state of Idaho that the parents or other legal guardians of the juvenile offender participate in the accomplishment of these goals through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile offender's behavior. It is the further intent of the legislature that the parents of the juvenile offender be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile offender's delinquent acts. In enacting this legislation, the legislature finds that the juvenile corrections system should encompass the following aspects: day treatment, community programs, observation and assessment programs, probation services, secure facilities, after-care and assistance to counties for juvenile offenders not committed to the custody of the department of juvenile corrections.

The following is a brief description of what the legislature intends to become the components of Idaho's juvenile corrections system:

Probation. Probation officers would have twenty-four (24) hour on call responsibility for juvenile offenders and would monitor their activities on a continual basis. Probation officers would be responsible for assisting juvenile offenders and their families in accessing counseling or treatment resources, close supervision of juvenile offenders' activities, supervision of restitution and coordination of other services provided to juvenile offenders. Juvenile offenders ordered into the custody of the department of juvenile corrections would be monitored by a county probation officer.

Day treatment. Day treatment programs would be time limited nonresidential treatment and educational programs. Included in these programs would be trackers who would provide intensive supervision of juvenile offenders through daily contact and by counseling juvenile offenders regarding employment, education, courts, family and life skills. Nonresidential alcohol and drug programs would provide outpatient assessment and counseling for juvenile offenders with substance abuse problems.

Community programs. It is intended that community programs would exist throughout the state to provide twenty-four (24) hour residential supervision and treatment options to juvenile offenders in close proximity to their families and their community. It is intended that these programs would strengthen the juvenile offender's relationship with family, engender a commitment to school and employment, promote the development of competency and life skills and help juvenile offenders generalize appropriate behavior into their environment.

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

Secure facilities. Secure facilities would provide secure confinement, discipline, education and treatment of the most seriously delinquent juvenile offenders. Programs at the secure facilities would be designed to help juvenile offenders recognize accountability for delinquent behavior by confronting and eliminating delinquent norms, criminal thinking and antisocial behavior and making restitution to victims through community service or other restitution programs.

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

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

(2) Strengthen opportunities for the juvenile offender's development of competency and life skills by expanding the juvenile offender's access to applicable programs and community resources.

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

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

(5) Develop efficient and effective juvenile correctional programs within the framework of professional correctional standards, legislative intent and available resources.

(6) Provide for a diversity of innovative and effective programs through research on delinquent behavior and the continuous evaluation of correctional programs.

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

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

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

[(20-501) 1963, ch. 319, sec. 1, p. 876; am. 1984, ch. 81, sec. 2, p. 149; am. 1989, ch. 155, sec. 1, p. 372; am. and redesig. 1995, ch. 44, sec.

2, p. 68; am. 2012, ch. 19, sec. 1, p. 39; am. 2012, ch. 257, sec. 5, p. 710.]

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

- (1) "Adult" means a person eighteen (18) years of age or older.
- (2) "Commit" means to transfer legal custody.
- (3) "Community-based program" means an in-home confinement program or a nonsecure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county.
- (4) "Court" means any district court within the state of Idaho, or magistrate's division thereof.
- (5) "Department" means the state department of juvenile corrections.
- (6) "Detention" means the temporary placement of juvenile offenders who require secure custody for their own or the community's protection in physically restricting facilities.
- (7) "Director" means the director of the department of juvenile corrections.
- (8) "Diversion" means the utilization of local community resources, churches, counseling for the juvenile offender and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.
- (9) "Judge" means a district judge or a magistrate.
- (10) "Juvenile" means a person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any alleged act, omission or status.
- (11) "Juvenile correctional center" means any state-operated residential facility or facility operated pursuant to a contract with the state that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.
- (12) "Juvenile detention center" means a secure facility established pursuant to sections 20-517 and 20-518, Idaho Code, and in compliance with IDAPA 05.01.02.
- (13) "Juvenile offender" means a person under the age of eighteen (18) at the time of any act, omission or status and who has been adjudicated as being within the purview of this chapter.
- (14) "Legal custody" means the relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.
- (15) "Legal guardian" means a person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender.
- (16) "Observation and assessment program" means any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment.

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

(18) "Staff secure facility" means a nonarchitecturally secure residential facility with awake staff twenty-four (24) hours a day, seven (7) days a week for intensive supervision of juvenile offenders.

(19) "Work program" means a public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

[(20-502) 1963, ch. 319, sec. 2, p. 876; am. 1973, ch. 27, sec. 1, p. 51; am. 1984, ch. 81, sec. 3, p. 149; am. 1989, ch. 155, sec. 2, p. 375; am. 1990, ch. 245, sec. 1, p. 696; am. 1990, ch. 355, sec. 1, p. 959; am. and redesig. 1995, ch. 44, sec. 3, p. 71; am. 1995, ch. 277, sec. 1, p. 926; am. 1997, ch. 83, sec. 1, p. 195; am. 2000, ch. 139, sec. 1, p. 365; am. 2012, ch. 19, sec. 2, p. 40.]

20-503. DEPARTMENT OF JUVENILE CORRECTIONS CREATED -- APPOINTMENT OF DIRECTOR -- POWERS AND DUTIES OF DEPARTMENT. (1) The department of juvenile corrections is hereby created. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall be under the control and supervision of a director, who shall be appointed by the governor, with the advice and consent of the senate. The director shall exercise all of the powers and duties necessary to carry out the proper administration of the department and may delegate duties to employees and officers of the department. The director shall have the authority to employ an attorney or attorneys to provide legal services to the department and such managers, assistants, clerical staff and other employees necessary to the proper functioning and administration of the department.

(3) The department of juvenile corrections shall be composed of such administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the department. The director shall appoint an administrator for each administrative unit within the department.

(4) The director shall have full power and authority to do all things necessary to establish and provide for the administration and operation of the department of juvenile corrections and to accomplish an orderly transition to the department of juvenile corrections and the counties of the duties and responsibilities for juvenile offenders and the juvenile justice system being performed by the department of health and welfare. It is intended that the director and staff of the department of health and welfare work cooperatively with the director and staff of the department of juvenile corrections and the counties in this effort, while continuing with their duties to juvenile offenders in the custody of the department of health and welfare until the official transfer of such duties to the department of juvenile corrections and the counties on October 1, 1995.

[20-503, added 1995, ch. 44, sec. 4, p. 72; am. 1995, ch. 277, sec. 2, p. 927; am. 2012, ch. 19, sec. 3, p. 41.]

20-504. DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS. (1) The department shall have jurisdiction over all juvenile offenders committed to it pursuant to chapter 5, title 20, Idaho Code.

(2) The department shall have legal custody over all juvenile offenders committed to it by the courts of this state for confinement. The department shall not have legal guardianship of any juvenile offender.

(3) The department is responsible for all juvenile offenders committed to it by the courts of this state for confinement. The department shall also establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.

(4) The department shall establish and administer all secure residential facilities including all state juvenile correctional centers.

(5) The department shall make all decisions regarding placement of juvenile offenders committed to it in the most appropriate program for supervision and treatment.

(6) The department shall establish an observation and assessment process for juvenile offenders committed to it by a court.

(7) The department shall establish liaison services with the counties or within the department's regions.

(8) The department may establish and operate work programs designed to employ juvenile offenders committed to it in public service work projects for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

(9) The department is hereby authorized and may place juvenile offenders committed to it pursuant to this chapter in a community-based or private program; provided, that the person, agency or association operating the facility or program has been approved and has otherwise complied with all applicable state and local laws.

(10) The department shall establish minimum standards for the operation of all private residential and nonresidential facilities and programs that provide services to juvenile offenders committed to the department. The standards shall be no more stringent than standards imposed for facilities operated by the department or for detention facilities operated by counties.

(11) The department shall provide technical assistance to counties establishing research-based programs for juvenile offenders who either have been found to come under the purview of this chapter or who have had their case informally diverted pursuant to section 20-511, Idaho Code, and who have not been committed to the legal custody of the department.

(12) The department shall have authority to adopt such administrative rules pursuant to the procedures provided in chapter 52, title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of this act.

(13) Subject to any competitive bidding requirements otherwise provided by law, the department shall have authority to enter into contracts with a private association or organization or other public agency or organization for the inspection and licensure of detention facilities.

(14) Subject to any competitive bidding requirements otherwise provided by law, the department shall have authority to enter into contracts with private providers or local governmental agencies for the confinement or other permanent or temporary placement of juvenile offenders committed to its custody.

(15) The department shall have authority to apply for, receive and expend federal funds, subject to appropriation by the legislature. The

department shall have authority to establish guidelines for and administer the distribution of state juvenile corrections act funds to counties for the employment and training of county probation officers, the establishment of secure and nonsecure residential or nonresidential facilities and programs for juvenile offenders. The department may require that a county provide matching funds as a condition of receiving juvenile corrections act funds. The department, by rule, in cooperation with the courts and the counties, shall establish uniform standards for county juvenile probation services, as well as qualifications for and standards for the training of juvenile probation officers.

[(20-504) 1989, ch. 155, sec. 9, p. 380; am. and redesig. 1995, ch. 44, sec. 5, p. 73; am. 1995, ch. 277, sec. 3, p. 928; am. 1997, ch. 83, sec. 2, p. 197; am. 1997, ch. 261, sec. 1, p. 745; am. 2000, ch. 139, sec. 2, p. 366; am. 2003, ch. 35, sec. 1, p. 154; am. 2004, ch. 50, sec. 2, p. 236; am. 2007, ch. 47, sec. 1, p. 118; am. 2012, ch. 19, sec. 4, p. 42.]

20-504A. STATE JUVENILE CORRECTIONAL CENTERS -- PURPOSES -- POWERS AND DUTIES OF THE DEPARTMENT AND THE DIRECTOR. (1) The purposes of a juvenile correctional center shall be:

- (a) The care, control and competency development of adjudicated juvenile offenders meeting standards for admission as adopted by the Idaho supreme court;
- (b) The provision pursuant to agreement with the counties of detention services for juvenile offenders subject to administrative or court order;
- (c) The provision of observation and assessment services for juvenile offenders committed to the department of juvenile corrections; and
- (d) To accept for placement those individuals sentenced to a state juvenile correctional center by a district court, or pursuant to agreement with the board of correction, subsequent to waiver of juvenile court jurisdiction.

(2) The department shall administer and provide general oversight of all state juvenile correctional centers and any other secure or nonsecure facilities holding juvenile offenders committed to it as required by the juvenile corrections act.

(3) The department shall assure that the educational programs of state juvenile correctional centers are in compliance with educational standards that are approved by the Idaho state board of education or an accrediting association recognized by the Idaho state board of education.

(4) The department shall have the power to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, for the administration and operation of state juvenile correctional centers.

(5) The director shall have the power:

- (a) To employ, fix the salary and prescribe the duties of a superintendent for each juvenile correctional center. The superintendent shall be a nonclassified employee and shall serve at the pleasure of the director. With the advice of the director, the superintendent may appoint and prescribe the duties of assistants, instructors, specialists and other employees required for the operation of the center;
- (b) To remove any employee of a juvenile correctional center for cause or as allowed by chapter 53, title 67, Idaho Code;

(c) To ensure that all teachers, except specialists, hold teaching certificates issued under the authority of the state board of education which are valid for the grades and subjects taught. All specialists shall hold diplomas from an accredited school of their specialty;

(d) To have, at all times, general supervision and control of all property, real and personal, appertaining to the center, and to insure the same; and

(e) To expend tax moneys appropriated, or otherwise placed to the credit of the center for maintenance and operation and to account for the same as prescribed by law.

[20-504A, added 1997, ch. 83, sec. 3, p. 198; am. 2012, ch. 19, sec. 5, p. 44.]

20-505. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any juvenile and over any adult who was a juvenile at the time of any act, omission or status, in the county in which the juvenile resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

(1) Where the act, omission or status occurs in the state of Idaho and is prohibited by federal, state, local or municipal law or ordinance by reason of minority only;

(2) Where the act or omission occurs in the state of Idaho and is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult;

(3) Concerning any juvenile where the juvenile comes under the purview of the interstate compact for juveniles as set forth in chapter 19, title 16, Idaho Code;

(4) This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of eighteen (18) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter, provided that a juvenile taken into custody pursuant to section 20-516(1) (c), Idaho Code, for an alcohol age infraction under section 18-1502(e), Idaho Code, shall be treated within the provisions of this chapter;

(5) This chapter shall not apply to the juvenile offenders who are transferred for criminal prosecution as an adult, as provided in this chapter;

(6) This chapter shall not apply to juvenile violators of traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt laws; except that a juvenile violator under the age of eighteen (18) years at the time of such violation may, at the discretion of the court, be treated under the provisions of this chapter;

(7) This chapter shall not apply to juvenile sex offenders who violate the provisions of section 18-8414, Idaho Code.

[(20-505) 16-1803 added 1976, ch. 233, sec. 1, p. 823; am. 1981, ch. 112, sec. 1, p. 168; am. 1981, ch. 222, sec. 6, p. 414; am. 1982, ch. 110, sec. 1, p. 311; am. 1984, ch. 81, sec. 4, p. 150; am. 1990, ch. 355, sec. 2, p. 960; am. 1993, ch. 154, sec. 2, p. 391; am. 1994, ch. 150, sec. 1, p. 344; am. 1994, ch. 414, sec. 2, p. 1303; am. and redesig. 1995, ch. 44, sec. 6, p. 75; am. 1996, ch. 261, sec. 3, p. 860; am. 1998, ch. 69, sec. 1, p. 262; am. 1999, ch. 388, sec. 1, p. 1083; am. 1999, ch. 389, sec. 1, p. 1085; am. 2002, ch. 185, sec. 1, p. 537; am. 2004, ch. 270, sec. 3, p. 754;

am. 2005, ch. 94, sec. 1, p. 314; am. 2005, ch. 187, sec. 1, p. 573; am. 2012, ch. 19, sec. 6, p. 44; am. 2016, ch. 344, sec. 2, p. 988.]

20-506. TRANSFER FROM OTHER COURTS. If during the pendency of a criminal or quasi-criminal charge against any juvenile in any other court, it shall be ascertained that the juvenile was under the age of eighteen (18) years at the time of committing the alleged offense, except where such juvenile has left the state, or where said charge is that such juvenile is a juvenile traffic, beer, wine or other alcohol or tobacco violator, or is within the purview of section 20-508(1) (a) or (1) (b), Idaho Code, it shall be the duty of such court forthwith to transfer the case, together with all the papers, documents and testimony connected therewith, to the court having jurisdiction over the juvenile with respect to the offense charged. The court making such transfer shall order the juvenile to be taken forthwith to the court to which the transfer is being made or place of detention designated by the court or shall release the juvenile to the custody of some suitable person to be brought before the court at a time designated. The court to which the case is transferred shall then proceed as provided in this act.

[(20-506) 1963, ch. 319, sec. 4, p. 876; am. 1981, ch. 222, sec. 7, p. 414; am. 1982, ch. 110, sec. 2, p. 312; am. and redesig. 1995, ch. 44, sec. 7, p. 76.]

20-507. RETENTION OF JURISDICTION. Jurisdiction obtained by the court in the case of a juvenile offender shall be retained by it for the purposes of this act until he becomes twenty-one (21) years of age, unless terminated prior thereto. If a juvenile offender under the jurisdiction of the court and after attaining eighteen (18) years of age, is charged with a felony, he shall be treated as any other adult offender. If a person eighteen (18) years of age or older already under court jurisdiction is convicted of a felony, that conviction shall terminate the jurisdiction of the court, provided however, nothing herein contained shall prohibit any court from proceeding as provided in section 20-508(2), Idaho Code.

[(20-507) 1963, ch. 319, sec. 5, p. 876; am. 1984, ch. 81, sec. 5, p. 151; am. 1989, ch. 155, sec. 3, p. 376; am. and redesig. 1995, ch. 44, sec. 8, p. 77; am. 2012, ch. 19, sec. 7, p. 45.]

20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the juvenile corrections act over the juvenile and order that the juvenile be held for adult criminal proceedings when:

(a) A juvenile is alleged to have committed any of the crimes enumerated in section 20-509, Idaho Code; or

(b) A juvenile is alleged to have committed an act other than those enumerated in section 20-509, Idaho Code, after the child became fourteen (14) years of age which would be a crime if committed by an adult; or

(c) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for people with intellectual disabilities or mental illness, is not treatable in any available institution or facility available to the state designed for the care and treatment of juveniles, or that the safety of the community requires the adult continue under restraint; or

(d) An adult already under the jurisdiction of the court is alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the juvenile corrections act and prosecute a juvenile under the criminal law may be made by the prosecuting attorney, the juvenile, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the juvenile corrections act, the court shall enter an order setting the motion for hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by county probation, or such other agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the juvenile, and the parents, guardian or custodian of the juvenile, and the prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by the parties, and such notice shall inform the juvenile and the parents, guardian or custodian of the juvenile of their right to court appointed counsel. Service of the notice shall be made in the manner prescribed for service of a summons under section 20-512, Idaho Code.

(5) The hearing upon the motion to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a juvenile corrections act proceeding. However, in the event the court determines, as a result of the hearing, that juvenile corrections act jurisdiction should be waived and the juvenile should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving juvenile corrections act jurisdiction and binding the juvenile over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive juvenile corrections act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said juvenile has come within the purview of the juvenile corrections act, and all subsequent proceedings after the decree finding the juvenile within the purview of the act must be under and pursuant to the act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(a) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

(b) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(d) The maturity of the juvenile as determined by considerations of his home, environment, emotional attitude, and pattern of living;

(e) The juvenile's record and previous history of contacts with the juvenile corrections system;

(f) The likelihood that the juvenile will develop competency and life skills to become a contributing member of the community by use of facilities and resources available to the court;

(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the juvenile is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one (1) or a combination of the factors set forth within this section, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a juvenile or adult held for criminal proceedings, the court in a county other than the juvenile's or adult's home county, after entering a decree that the juvenile or adult is within the purview of this chapter, may certify the case for sentencing to the court of the county in which the juvenile offender or adult resides upon being notified that the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the juvenile offender or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

(10) Upon conviction of a juvenile offender held for adult criminal proceedings under this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence and retain jurisdiction pursuant to section 19-2601A, Idaho Code, and commit the defendant to the dual custody of the department of juvenile corrections and the state board of correction.

[(20-508, added 1977, ch. 165, sec. 2, p. 427; am. 1981, ch. 162, sec. 1, p. 284; am. and redesign. 1995, ch. 44, sec. 9, p. 77; am. 1995, ch. 47, sec. 1, p. 111; am. 1995, ch. 277, sec. 4, p. 930; am. 1997, ch. 82, sec. 1, p. 192; am. 1999, ch. 390, sec. 1, p. 1086; am. 2000, ch. 246, sec. 2, p. 688; am. 2007, ch. 308, sec. 2, p. 865; am. 2010, ch. 235, sec. 9, p. 549; am. 2012, ch. 19, sec. 8, p. 45; am. 2015, ch. 113, sec. 6, p. 288.]

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

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape as defined in section 18-6101, Idaho Code;

(d) Forcible sexual penetration by the use of a foreign object;

(e) Infamous crimes against nature, committed by force or violence;

(f) Mayhem;

(g) Assault or battery with the intent to commit any of the above serious felonies;

(h) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand

(1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

(i) Arson in the first degree and aggravated arson;

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

(2) Once a juvenile has been formally charged or indicted pursuant to this section or has been transferred for criminal prosecution as an adult pursuant to the waiver provisions of section 20-508, Idaho Code, or this section, the juvenile shall be held in a county jail or other adult prison facility unless the court, after finding good cause, orders otherwise.

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

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

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence pursuant to section 19-2601A, Idaho Code, and commit the defendant to the dual custody of the department of juvenile corrections and the state board of correction.

[(20-509) 16-1806A, added 1981, ch. 151, sec. 1, p. 262; am. 1984, ch. 81, sec. 6, p. 151; am. 1990, ch. 268, sec. 5, p. 758; am. and redesign. 1995, ch. 44, sec. 10, p. 79; am. 1995, ch. 46, sec. 1, p. 110; am. 1995, ch. 47, sec. 2, p. 113; am. 1995, ch. 48, sec. 1, p. 114; am. 1997, ch. 142, sec. 1, p. 414; am. 2000, ch. 73, sec. 1, p. 155; am. 2000, ch. 246, sec. 3, p. 690; am. 2007, ch. 308, sec. 3, p. 868; am. 2010, ch. 352, sec. 10, p. 928; am. 2012, ch. 19, sec. 9, p. 47; am. 2015, ch. 113, sec. 7, p. 290; am. 2016, ch. 296, sec. 13, p. 842.]

20-510. INFORMATION -- INVESTIGATION -- PETITION. Any peace officer, any prosecuting attorney, or any authorized representative of the board of trustees of a school district of this state, having knowledge of a juvenile who is within the purview of this act may file a petition with the court in such form as may be required by the court, except a peace officer may also is-

sue a citation for a curfew violation pursuant to section 20-549, Idaho Code. Said individual or agency shall be responsible for providing the evidence to support the allegations made in the petition, provided this in no way shall relieve peace officers from enforcement of the law as set forth in section 31-2227, Idaho Code. The court may make a preliminary inquiry to determine whether the interests of the public or of the juvenile require that further action be taken. Such inquiry may be made through the county probation officer or such other agent or investigation officer designated by the court. Thereupon, the court may make such informal adjustment as is practicable, or dismiss the petition, or set the matter for hearing. If an informal adjustment is made, it shall provide for full or partial restitution in the manner and form prescribed by the court when the offense involves loss or damage of property of another. A probation officer shall not file a petition unless the juvenile has previously been under the jurisdiction of the court. The petition and all subsequent court documents shall be entitled "In the interest of . . . , a juvenile under eighteen (18) years of age." The petition may be made upon information and belief but it shall be made under oath. It shall set forth plainly: (1) the facts which bring the juvenile within the purview of this act; (2) the name, age, and residence of the juvenile; (3) the names and residences of his parents and spouse, if any; (4) the name and residence of his legal guardian, if there be one, or the person or persons having custody or control of the juvenile, or of the nearest known relative if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner the petition shall so state.

Service of a petition upon the parents, legal guardian or person or persons having custody or control of the juvenile shall subject the parents, legal guardian or person or persons having custody or control of the juvenile to the provisions of this chapter. The petition shall inform the parents, legal guardian or other person legally obligated to care for and support the juvenile that service of the petition upon them shall make them subject to the provisions of this chapter.

[(20-510) 1963, ch. 319, sec. 7, p. 876; am. 1977, ch. 156, sec. 1, p. 399; am. 1989, ch. 155, sec. 4, p. 376; am. 1990, ch. 355, sec. 3, p. 960; am. and redesig. 1995, ch. 44, sec. 11, p. 80; am. 2000, ch. 74, sec. 1, p. 157; am. 2006, ch. 177, sec. 1, p. 544.]

20-511. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. (1) Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the county probation officer to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the county probation officer or a community-based diversion program for informal probation and counseling. If the diversion process is utilized pursuant to this subsection, then statements made by a juvenile in a diversion proceeding shall be inadmissible at an adjudicative proceeding on the underlying charge as substantive evidence of guilt. If community service is going to be utilized pursuant to this subsection, the prosecuting attorney shall collect a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is going to perform and remit the fee to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons

performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

(2) After the petition has been filed and where the juvenile offender admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition. Informal adjustment includes, but is not limited to:

- (a) Reprimand of the juvenile offender;
- (b) Informal supervision with the probation department;
- (c) Community service work;
- (d) Restitution to the victim;
- (e) Participation in a community-based diversion program.

(3) The court shall dismiss the case if:

- (a) An informal adjustment has been granted and the juvenile offender has satisfied the terms or conditions of the informal adjustment;
- (b) The court is convinced by the showing made that there is no longer cause for continuing the period of informal adjustment; and
- (c) It is compatible with the public interest.

(4) Information uniquely identifying the juvenile offender, the offense, and the type of program utilized shall be forwarded to the department. This information shall be maintained by the department in a statewide juvenile offender information system. Access to the information shall be controlled by the department, subject to the provisions of section 74-113, Idaho Code.

(5) Such informal adjustment of the petition shall be conducted in the manner prescribed by the Idaho juvenile rules. When an informal adjustment is made pursuant to this section and the juvenile offender is to perform community service work, the court shall assess the juvenile offender a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile offender is to perform. This fee shall be remitted by the court to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

[(20-511) 16-1807A, added 1984, ch. 81, sec. 7, p. 152; am. 1994, ch. 233, sec. 3, p. 727; am. and redesig. 1995, ch. 44, sec. 12, p. 80; am. 1996, ch. 260, sec. 1, p. 856; am. 2009, ch. 154, sec. 1, p. 449; am. 2012, ch. 19, sec. 10, p. 49; am. 2013, ch. 222, sec. 1, p. 522; am. 2014, ch. 345, sec. 1, p. 865; am. 2015, ch. 141, sec. 24, p. 404; am. 2016, ch. 51, sec. 1, p. 147.]

20-511A. MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT. (1) A judge of any court shall order the department of health and welfare to submit appropriate mental health assessments and a plan of treatment for the court's approval if at any stage of a proceeding under this chapter or the child protective act, chapter 16, title 16, Idaho Code, a judge has reason to believe, based upon the record and proceedings of the court or upon an affidavit of a party, state or county agency or any person having physical custody of the juvenile or juvenile offender, that he or she:

- (a) Is suffering a substantial increase or persistence of a serious emotional disturbance as defined in section 16-2403, Idaho Code, which impairs his or her ability to comply with the orders and directives of

the court, or which presents a risk to his or her safety or well-being or the safety of others; and

(b) Such condition has not been adequately addressed with supportive services and/or corrective measures previously provided to the juvenile, or the juvenile's needs with respect to the serious emotional disturbance are not being met or have not been met.

(2) The court may convene a screening team consisting of representatives from the department of health and welfare, county probation, local school officials, teen early intervention specialists as provided for under section 16-2404A, Idaho Code, the department of juvenile corrections and/or other agencies or persons designated by the court to review the plan of treatment and provide written recommendations to the court. Parents and guardians of the juvenile or juvenile offender, if available, shall be included in the screening team and consulted with regard to the plan of treatment.

(3) If the court, after receiving the mental health assessment and plan of treatment submitted by the department of health and welfare and any recommendations from the screening team, determines that additional information is necessary to determine whether the conditions set forth in subsections (1) (a) and (1) (b) of this section are present, or to determine an appropriate plan of treatment for the juvenile or juvenile offender, the court may order an evaluation and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist, with the expenses of such evaluation and/or recommendations to be borne by the department of health and welfare.

(4) If the court concludes that the conditions set forth in subsections (1) (a) and (1) (b) of this section are present, the plan of treatment, as approved by the court, shall be entered into the record as an order of the court. The department of health and welfare shall provide mental health treatment as designated by the approved plan of treatment. If in-patient or residential treatment is required as part of the plan of treatment, the court shall hold a hearing on whether to order such treatment unless the hearing is waived by the juvenile or juvenile offender and his or her parents or guardians. The court may order parents, legal guardians or custodians to adhere to the treatment designated in the plan of treatment. Representatives from the department of health and welfare, county probation, local school officials, teen early intervention specialists as provided for under section 16-2404A, Idaho Code, the department of juvenile corrections and/or other agencies or persons designated by the court shall attend case review hearings as scheduled by the court.

(5) All costs associated with assessment and treatment shall be the responsibility of the parents of the juvenile or juvenile offender according to their ability to pay based upon the sliding fee scale established pursuant to section 16-2433, Idaho Code. The financial obligation of the family shall be determined after consideration of all available payment and funding sources including title XIX of the social security act, as amended, all available third party sources, and parent resources according to any order for child support under chapter 10, title 32, Idaho Code. Services shall not be conditioned upon transfer of custody or parental rights.

[20-511A, added 2005, ch. 223, sec. 1, p. 699; am. 2007, ch. 309, sec. 4, p. 873; am. 2012, ch. 19, sec. 11, p. 49.]

20-512. SUMMONS -- NOTICE -- CUSTODY OF JUVENILE. After a petition shall have been filed and after such further investigation as the court may direct, and if the matter is set for hearing, the court shall issue a summons requiring the person or persons who have custody or control of the juvenile to appear personally and bring the juvenile before the court at a time and place stated; provided, however, if hearing is to be held, it shall be held not later than fifteen (15) days after the summons is issued unless the court should order on being shown cause that the time be extended. If the person so summoned shall be other than a parent or guardian of the juvenile, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed for the hearing. Notice shall be given as hereinafter provided. A subpoena may be issued requiring the appearance of any other person whose presence is required by the juvenile, his guardian or any other person who, in the opinion of the judge, is necessary. If it appears the juvenile is in such condition or surroundings that his welfare requires that he be taken into custody immediately, the judge, as provided in section 20-516, Idaho Code, may order by endorsement upon the summons that the officer serving the same shall at once take the juvenile into custody and bring him before the court.

[(20-512) 1963, ch. 319, sec. 8, p. 876; am. and redesign. 1995, ch. 44, sec. 13, p. 81.]

20-513. SERVICE OF SUMMONS -- TRAVEL EXPENSES. Service of summons shall be made personally by delivery of an attested copy thereof to the person summoned; provided that if the judge is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to the last known address, or by publication thereof, or both. It shall be sufficient to confer jurisdiction if service is effected at least forty-eight (48) hours before the time fixed in the summons for the hearing. When publication is used the summons shall be published in two (2) consecutive issues of a weekly newspaper printed and published in the county; such newspaper to be designated by the court in the order for publication of the summons, and such publication shall have the same force and effect as though such person had been personally served with said summons. Service of summons, process or notice required by this act shall be made by the sheriff or a probation officer upon the request of the court and a return must be made by the sheriff on the summons showing that such service has been made. The judge may authorize payment of any necessary travel expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the purview of this act, and such expenses when approved by the judge shall be a charge upon the county, except that not more than five (5) witnesses on behalf of any parent or guardian may be required to attend such hearing at the expense of the county. The court may summon the appearance of any person whose presence is deemed necessary as a witness or possible resource for the care and treatment of the juvenile, including persons whom the juvenile or the family wishes to have present.

[(20-513) 1963, ch. 319, sec. 9, p. 876; am. 1976, ch. 246, sec. 1, p. 845; am. and redesign. 1995, ch. 44, sec. 14, p. 82.]

20-514. REPRESENTATION AT ALL STAGES OF PROCEEDINGS -- APPOINTMENT OF COUNSEL -- WAIVER -- PAYMENT OF COST OF LEGAL SERVICES. (1) A juvenile who is being detained by a law enforcement officer or who is under formal charge

of having committed, or who has been adjudicated for commission of, an act, omission or status that brings him under the purview of this act, is entitled:

(a) To be represented by an attorney to the same extent as an adult having his own counsel is so entitled pursuant to section 19-852, Idaho Code; and

(b) To be provided with the necessary services and facilities of representation, including investigation and other preparation.

(2) A juvenile who is entitled to be represented by an attorney under subsection (1) of this section is entitled:

(a) To be counseled and defended at all stages of the matter beginning with the earliest time and including revocation of probation or recommitment;

(b) To be represented in any appeal; and

(c) To be represented in any other post-adjudication or review proceeding that the attorney or the juvenile considers appropriate, unless the court in which the proceeding is brought determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense and is therefore a frivolous proceeding.

(3) A juvenile's right to a benefit under subsection (1) or (2) of this section is unaffected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

(4) As early as possible in the proceedings, and in any event before the hearing of the petition on the merits, the juvenile and his parents, or guardian, shall be notified of their right to have counsel represent them. When it appears to the court that the juvenile or his parents or guardian desire counsel but are financially unable to pay for such legal services, the court shall appoint counsel to represent the juvenile and his parents or guardian; provided that in the event the court shall find that there is a conflict of interest between the interests of the juvenile and his parents or guardian, then the court shall appoint separate counsel for the juvenile, whether or not he or his parents or guardian are able to afford counsel, unless there is an intelligent waiver of the right of counsel by the juvenile, except as provided in subsection (6) of this section, and the court further determines that the best interest of the juvenile does not require the appointment of counsel. Counsel appointed under this section shall initially receive reasonable compensation from the county and the county shall have the right to be reimbursed for the cost thereof by the parents or guardian as hereafter provided in this section.

(5) Any waiver of the right to counsel by a juvenile under this act shall be made in writing, on the record and upon a finding by the court that:

(a) The juvenile has been informed of the right to counsel and the dangers and disadvantages of self-representation; and

(b) The waiver is intelligently made after consideration of the totality of the circumstances including, but not limited to:

(i) The age, maturity, intelligence, education, competency and comprehension of the juvenile;

(ii) The presence of the juvenile's parents or guardian;

(iii) The seriousness of the offense;

(iv) The collateral consequences of adjudication of the offense; and

(v) Whether the interests of the juvenile and his parents or guardian conflict.

(6) A juvenile shall not be permitted to waive the assistance to counsel in any of the following circumstances:

- (a) If the juvenile is under the age of fourteen (14) years;
- (b) In sentencing proceedings in which it has been recommended that the juvenile be committed to the legal custody of the department of juvenile corrections;
- (c) In proceedings in which the juvenile is being adjudicated for commission of a crime of a sexual nature;
- (d) In proceedings in which the juvenile is being adjudicated for commission of a felony;
- (e) In hearings upon a motion to waive jurisdiction under the juvenile corrections act pursuant to section 20-508, Idaho Code;
- (f) In hearings upon a motion to examine the juvenile to determine if he is competent to proceed pursuant to section 20-519A, Idaho Code; or
- (g) In recommitment proceedings.

(7) Upon the entry of an order finding the juvenile is within the purview of this act, the parents, spouse or other person liable for the support of the juvenile, or the estates of such persons, and the estate of such juvenile, may be required by the court to reimburse the county for all or a portion of the cost of those legal services rendered to the juvenile by counsel appointed pursuant to this section that are related to the finding that the juvenile is within the purview of this act, unless the court finds such persons or estate to be indigent as defined in section 19-851(c), Idaho Code, and the requirement would impose a manifest hardship on those persons responsible for the juvenile or the estates. The current inability of those persons or entities to pay the reimbursement shall not, in and of itself, restrict the court from ordering reimbursement.

(8) The prosecuting attorney of each county may, on behalf of the county, recover payment or reimbursement, as the case may be, from each person or estate who is liable for the payment or reimbursement of the cost of court appointed counsel for the juvenile, as provided in subsection (7) of this section. In the event such payment or reimbursement is not made upon demand by the prosecuting attorney, suit may be brought against such persons by the prosecuting attorney within five (5) years after the date on which such counsel was appointed by the court.

[(20-514) 1976, ch. 246, sec. 2, p. 846; am. and redesign. 1995, ch. 44, sec. 15, p. 82; am. 2013, ch. 222, sec. 2, p. 522.]

20-515. FAILURE TO OBEY SUMMONS, A CONTEMPT -- WARRANT. If any person summoned as herein provided shall, without reasonable cause, fail to appear, he may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual, or that the welfare of the juvenile offender requires that he be brought forthwith into the custody of the court, a warrant or a capias may be issued for the parent, guardian or the juvenile offender.

[(20-515) 1963, ch. 319, sec. 10, p. 876; am. and redesign. 1995, ch. 44, sec. 16, p. 83; am. 1997, ch. 76, sec. 2, p. 161; am. 2012, ch. 19, sec. 12, p. 51.]

20-516. APPREHENSION AND RELEASE OF JUVENILES -- DETENTION. (1) A peace officer may take a juvenile into custody, or a private citizen may detain a

juvenile until the juvenile can be delivered forthwith into the custody of a peace officer, without order of the court:

(a) When he has reasonable cause to believe that the juvenile has committed an act which would be a misdemeanor or felony if committed by an adult; or

(b) When in the presence of a peace officer or private citizen the juvenile has violated any local, state or federal law or municipal ordinance; or

(c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian, alcohol age violations under section 18-1502 (e), Idaho Code, and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements, and a peace officer may, in his discretion, notify the parent, guardian or legal custodian. In the event of an alcohol age infraction under section 18-1502 (e), Idaho Code, the status offense under this section shall be in addition to the infraction.

(2) A peace officer may take a juvenile into custody upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile comes within the purview of this chapter. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the juvenile is taken into custody. When an officer takes a juvenile into custody, he shall notify the parent, guardian or custodian of the juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of society or the juvenile, such juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the juvenile.

(3) A juvenile taken into custody may be fingerprinted and photographed. Any fingerprints and photographs taken shall be forwarded as provided in subsection (8) of this section. If the court finds good cause it may order any fingerprints and photographs expunged.

(4) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include, but are not limited to, the following:

- (a) Parents of the juvenile;
- (b) Relatives of the juvenile;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention center; or

(f) Community-based diversion programs.

(5) The person in charge of a detention center shall give immediate notice to the court that the juvenile is in his custody.

(6) No juvenile shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

(7) As soon as a juvenile is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

(8) A juvenile taken into detention for an offense shall be fingerprinted and photographed. Fingerprints and photographs taken of juveniles shall be forwarded to the appropriate law enforcement agency and filed with the bureau of criminal identification of the Idaho state police which shall create a juvenile offender fingerprint file and enter the fingerprint data into the automated fingerprint identification system. If the court finds good cause it may order the fingerprints and photographs of the juvenile offender expunged.

(9) Peace officers' records of juveniles shall be kept separate from records of adults and shall be subject to disclosure according to chapter 1, title 74, Idaho Code.

[(20-516) 16-1811, 1963, ch. 319, sec. 11, p. 876; am. 1977, ch. 156, sec. 2, p. 400; am. 1982, ch. 126, sec. 1, p. 362; am. 1984, ch. 81, sec. 8, p. 152; am. 1990, ch. 213, sec. 11, p. 497; am. and redesig. 1995, ch. 44, sec. 17, p. 83; am. 1995, ch. 49, sec. 1, p. 115; am. 1995, ch. 277, sec. 5, p. 932; am. 1996, ch. 259, sec. 1, p. 854; am. 1996, ch. 379, sec. 2, p. 1285; am. 2000, ch. 469, sec. 54, p. 1505; am. 2012, ch. 19, sec. 13, p. 51; am. 2015, ch. 141, sec. 25, p. 405; am. 2016, ch. 344, sec. 3, p. 988.]

20-517. DETENTION ACCOMMODATIONS. (1) The county commissioners shall provide a detention center for the detention of juvenile offenders to be conducted by the court, or, subject to the approval of the court, by other appropriate public agency, provided that such detention shall comply with the provisions of section 20-518, Idaho Code; or within the limits of funds provided by the county commissioners.

(2) For the purpose of carrying out the provisions of this section, the county commissioners may enter into contracts or agreements with public or private agencies, individuals, other counties, or the department of juvenile corrections which may include the expenditures of moneys outside the county boundaries. If the county in which the court is located has made an agreement with another governmental unit or agency located outside the county or the judicial district for the detention of juvenile offenders under this act, then any court in the county may order a juvenile offender detained outside of the county or outside of the judicial district in the detention center described in such agreement. All detention centers in this section shall be in compliance with section 20-518, Idaho Code, and IDAPA 11.11.02.

(3) The county wherein any court has entered an order for the detention of a juvenile offender outside of the county or outside of the judicial district as provided by subsection (2) of this section shall pay all direct and indirect costs of the detention of the juvenile offender to the governmental unit or agency owning or operating the detention center in which the juvenile

offender was detained. The amount of such cost may be determined by agreement between the county wherein the court entered the order of detention and the county or governmental unit or agency owning or operating such detention center.

(4) All moneys appropriated by the state for the planning and design of regional detention centers shall be administered and distributed by the director of the department of administration for the planning and design of regional detention centers in accordance with the requirements or directives of such appropriation. In administering such moneys, the director of the department of administration shall consult with the designated county officials of every county involved or affected by a proposed regional detention center and shall abide by the decision of the designated representatives of each of the counties so involved or affected.

[(20-517) 1963, ch. 319, sec. 12, p. 876; am. 1976, ch. 231, sec. 1, p. 819; am. 1978, ch. 57, sec. 1, p. 109; am. 1989, ch. 155, sec. 17, p. 396; am. and redesisg. 1995, ch. 44, sec. 18, p. 85; am. 2012, ch. 19, sec. 14, p. 52.]

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

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

(2) Juvenile detention centers must provide supervision and observation of juveniles sufficient to protect the physical and mental health of the detainees.

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

(4) Juveniles held in detention must have access to reading materials on a regular and systematic basis. Detained juveniles may receive books, newspapers and periodicals from any source including delivery to the detention center by family members, subject to the right of detention authorities to inspect and remove dangerous or harmful materials. Detention authorities may forbid the introduction into holding quarters of obscene books or periodicals.

(5) A visiting program shall be established in juvenile detention centers which will allow for family visits to each juvenile for at least two (2) hours each week.

(6) The juvenile detention center shall meet the standards and rules set forth in IDAPA 05.01.02 and IDAPA 11.11.02.

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

[(20-518) 1978, ch. 57, sec. 2, p. 110; am. 1984, ch. 190, sec. 1, p. 439; am. 1989, ch. 155, sec. 18, p. 397; am. and redesign. 1995, ch. 44, sec. 19, p. 86; am. 2000, ch. 111, sec. 1, p. 248; am. 2011, ch. 7, sec. 1, p. 19; am. 2012, ch. 19, sec. 15, p. 53.]

20-519. EVIDENTIARY HEARING. If the juvenile denies the allegations in the petition, the court shall conduct a full evidentiary hearing, in the manner prescribed by the Idaho juvenile rules. The juvenile shall have the right to call witnesses on his own behalf. A record shall be made in all proceedings connected with the case and shall be preserved in the event of appeal. If at the conclusion of the evidentiary hearing the court finds the juvenile to come within the purview of the act, the court shall so rule, and then shall set the matter down for sentencing, or may, in the interest of time, hold a sentencing hearing at the conclusion of the evidentiary hearing if all information necessary to the disposition of the case is available at the time.

When a juvenile, other than the juvenile against whom the petition has been filed, is summoned as a witness in any hearing under this act, notwithstanding any other statutory provision, parents, a counselor, a friend or other person having a supportive relationship with the juvenile shall, if available, be permitted to remain in the courtroom at the witness stand with the juvenile during the juvenile's testimony unless, in written findings made and entered, the court finds that the juvenile's constitutional right to a fair trial will be unduly prejudiced.

[(20-519) 1984, ch. 81, sec. 9, p. 154; am. 1989, ch. 54, sec. 1, p. 70; am. and redesign. 1995, ch. 44, sec. 20, p. 86.]

20-519A. EXAMINATION OF JUVENILE -- COMPETENCY -- APPOINTMENT OF PSYCHIATRISTS, LICENSED PSYCHOLOGISTS OR EVALUATION COMMITTEE -- HOSPITALIZATION -- REPORT. (1) At any time after the filing of a delinquency petition, a party may request in writing, or the court on its own motion may order, that the juvenile be examined to determine if the juvenile is competent to proceed. The request shall state the facts in support of the request for a competency examination. If, based upon the provisions of subsection (2) of this section, the court determines that there is good cause to believe that the juvenile is incompetent to proceed, then the court shall stay all proceedings and appoint at least one (1) examiner who shall be a qualified psychiatrist or licensed psychologist, or shall order the department of health and welfare to designate, within two (2) business days, at least one (1) examiner who shall be a qualified psychiatrist or licensed psychologist, to examine and report upon the mental condition of the juvenile. If there is reason to believe the basis for the juvenile's incompetency is due to a developmental disability, the court shall appoint an evaluation committee as defined in section 66-402, Idaho Code, or shall order the department of health and welfare to designate, within two (2) business days, an evaluation committee, to examine and report upon the mental condition of the juvenile. The county shall be responsible for the cost of such evaluation subject to any reimbursement by the parents or other legal guardian of the juvenile. The court may order the parents or other legal guardian of the juvenile, unless indigent, to contribute to the costs of such examination in an amount to be set by the court after due notice to the parent or other legal guardian and the opportunity to be heard.

(2) A juvenile is competent to proceed if he or she has:

- (a) A sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding;
- (b) A rational and factual understanding of the proceedings against him or her; and
- (c) The capacity to assist in preparing his or her defense.

(3) Within three (3) business days of the appointment or designation of an examiner or an evaluation committee pursuant to the provisions of subsection (1) of this section, the examiner or evaluation committee shall determine the best location for the examination. The examination shall be conducted on an outpatient basis unless the court specifically finds that hospitalization or confinement of the juvenile for evaluation of competency is necessary, the juvenile is currently hospitalized in a psychiatric hospital or the juvenile is detained. The court may order the juvenile be confined to a hospital or other suitable facility, including detention as defined in section 20-502, Idaho Code, after a hearing to determine whether such confinement is necessary. Any such confinement shall be for the purpose of examination and shall be for a period not exceeding ten (10) days from the date of admission to the hospital or other suitable facility. The court, upon request, may make available to the examiner or the evaluation committee any court records relating to the juvenile.

(4) The examiner or evaluation committee may employ any method of examination that is accepted by the examiner's profession for the examination of juveniles alleged not to be competent, provided that such examination shall, at a minimum, include formal assessments of the juvenile in each of the following domains:

- (a) Cognitive functioning;
- (b) Adaptive functioning;
- (c) Clinical functioning;
- (d) Comprehension of relevant forensic issues; and
- (e) Genuineness of effort.

(5) If at any time during the examination process, the examiner has reason to believe that the juvenile's alleged incompetency may be the result of a developmental disability and the matter has not already been referred to an evaluation committee for review, the examiner shall immediately notify the court. The court shall appoint an evaluation committee, or shall order the department of health and welfare to designate, within two (2) business days, an evaluation committee, to examine and report upon the mental condition of the juvenile. Conversely, if at any time during the examination process an evaluation committee has reason to believe the juvenile's alleged incompetency is not the result of a developmental disability, the evaluation committee shall immediately notify the court so the examination can be completed by a qualified psychiatrist or licensed psychologist as set forth in subsection (1) of this section. The new examination and report shall be conducted within the time frames set forth in subsection (6) of this section.

(6) The examiner or evaluation committee shall submit a written report to the court within thirty (30) days of receipt of the appointment or designation. The report shall address the factors set forth in section 20-519B, Idaho Code. If the examiner or evaluation committee determines that the juvenile is incompetent to proceed, the report shall also include the following:

- (a) The nature of the mental disease, defect, disability or other condition including chronological age that is the cause of the juvenile's incompetency;

- (b) The juvenile's prognosis;
- (c) Whether the examiner or evaluation committee believes the juvenile may be restored to competency and an estimated time period in which competence could be restored with treatment;
- (d) If the juvenile may be restored to competency, the recommendations for restoration shall be the least restrictive alternative that is consistent with public safety;
- (e) If the juvenile is not competent and there is no substantial probability that the juvenile can be restored to competency within six (6) months, a recommendation as to whether the juvenile meets the criteria set forth in section 16-2418, 66-329(11) or 66-406(11), Idaho Code, and identification of any other services recommended for the juvenile that are the least restrictive, community based and consistent with public safety; and
- (f) No statements of the juvenile relating to the alleged offense shall be included in the report unless such statements are relevant to the examiner or evaluation committee's opinion regarding competency.

(7) The court, upon a finding of good cause, may alter the time frames for the designation of an examiner or evaluation committee, the completion of the examination or the completion of the report but shall ensure that the examination and competency determination occur as expeditiously as possible. The court may, upon a finding of good cause, vacate or continue the ninety (90) day restoration review hearing set forth in section 20-519C, Idaho Code.

(8) The report of the examination shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the juvenile.

(9) If the examination cannot be conducted by reason of the unwillingness of the juvenile to participate, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the juvenile was the result of age, mental disease, defect or disability and whether the examiner recommends that a second examiner be appointed to examine the juvenile.

[20-519A, added 2011, ch. 178, sec. 1, p. 505.]

20-519B. DETERMINATION OF COMPETENCY OF JUVENILE TO PROCEED -- SUSPENSION OF PROCEEDINGS -- RESTORATION ORDER -- COMMITMENT. (1) The court shall hold a hearing no later than thirty (30) days after the report of the examiner or evaluation committee is filed pursuant to the provisions of section 20-519A, Idaho Code. At the hearing, the court may receive as evidence the report of the examiner or evaluation committee. In considering whether the juvenile is competent to proceed, the court shall consider the following:

- (a) A description of the nature, content, extent and results of the examination and any test that was conducted;
- (b) The juvenile's capacity to understand the charges or allegations against the juvenile;
- (c) The juvenile's capacity to understand the range and nature of possible penalties that may be imposed in the proceedings;
- (d) The juvenile's capacity to understand the adversarial nature of the legal process;
- (e) The juvenile's capacity to disclose to counsel facts pertinent to the proceedings at issue;

(f) Whether the juvenile is able to display appropriate courtroom behavior;

(g) Whether the juvenile is able to receive accurate impressions of the facts about which he or she is examined, is able to appreciate the meaning of an oath to tell the truth and has an understanding of the potential consequences of not telling the truth;

(h) The examiner's opinion as to the competency of the juvenile as defined in subsection (2) of section 20-519A, Idaho Code.

(2) The weight to be given to each of the factors listed in subsection (1) of this section is discretionary with the court and a determination that the juvenile is or is not competent to proceed may be based on any one (1) or a combination of such factors, which shall be recited in the court's order regarding competency.

(3) If neither the prosecuting attorney nor counsel for the juvenile contests the findings of the report of the examiner or evaluation committee, the court may make the determination on the basis of such report. If a party contests the findings of such report, they shall have the right to cross-examine the qualified psychiatrist or licensed psychologist who prepared and submitted the report and to offer evidence upon this issue. A finding of incompetency shall be based upon a preponderance of the evidence.

(4) If the court finds the juvenile is competent to proceed, the proceedings shall continue without delay.

(5) If the court initially finds that the juvenile is incompetent and there is not a substantial probability that the juvenile will be restored to competency within six (6) months, the court may stay or dismiss the matter. In determining whether to stay or dismiss the matter, the court shall consider all relevant factors including, but not limited to, the seriousness of the alleged offense, resources available to the juvenile and any issues of public safety. Prior to a stay or dismissal of the matter, the court may convene a screening team consisting of representatives from the department of health and welfare, county probation, local school officials, and/or other agencies or persons designated by the court to develop a treatment plan for the juvenile. In developing such treatment plan, the recommendations contained in the competency examination shall be considered to ensure necessary services for the juvenile are put into place. Parents and guardians of the juvenile, if available, shall be included in the screening team and consulted with regard to the plan of treatment. If appropriate, the court may hold a hearing to determine whether proceedings under chapter 24, title 16, or chapter 3 or 4, title 66, Idaho Code, should be instituted. If such proceedings are initiated, the juvenile court may retain jurisdiction over said proceedings.

(6) If the court determines that the juvenile is incompetent to proceed, but may be restored to competency within six (6) months, the court shall order a plan of treatment to be developed by the department of health and welfare for the juvenile to undergo efforts at restoration to competency. The court may:

(a) Convene a restoration treatment team to make recommendations on a plan of treatment;

(b) Order any agencies that have treated or had custody of the juvenile to release any pertinent information or records to the department of health and welfare to be used in the development and implementation of the juvenile's restoration plan;

(c) Order the department of health and welfare, county probation, school officials and the department of juvenile corrections to release all pertinent information regarding the juvenile to the court, the department of health and welfare and any restoration treatment team to be used in the development and implementation of the juvenile's restoration plan;

(d) Require the parents or guardians of the juvenile, and where appropriate require the juvenile, to allow information pertinent to the restoration treatment plan be released to the department of health and welfare, the court and any restoration treatment team.

(7) If the court determines that the juvenile is incompetent to proceed, but may be restored to competency, the court may order a juvenile to participate in the competency restoration program as developed by the department of health and welfare. The purpose of the treatment or training is the restoration of the juvenile's competency to proceed. In determining the type and location of the competency restoration program and in designating a restoration provider, the department of health and welfare shall identify the least restrictive alternative that is consistent with public safety and consider whether inpatient treatment, residential care or secure confinement is necessary for program participation.

(a) An inpatient or residential or secure detention facility is only appropriate if all available less restrictive alternatives in community settings which would offer an opportunity for improvement of the juvenile's condition are inappropriate. If the department of health and welfare's plan of restoration requires the juvenile be placed in an inpatient, residential or secure detention facility, the court shall hold a hearing on whether to order such placement unless the hearing is waived by the juvenile and the juvenile's parents or guardians. Juveniles charged with only a status offense or multiple status offenses shall not be held in a secure confinement or detention facility for restoration purposes.

(b) The department of health and welfare is responsible for determining the competency restoration program and services. All costs associated with restoration services shall be the responsibility of the parents of the juvenile according to their ability to pay based upon the sliding fee scale established pursuant to section 16-2433, Idaho Code. The financial obligation of the parents shall be determined after consideration of all available payment and funding sources including title XIX of the social security act, as amended, all available third party sources including funding available to the juvenile from other programs, grants or agencies and parent resources according to any order for child support under chapter 10, title 32, Idaho Code. Services shall not be conditioned upon transfer of custody of parental rights.

(8) If a juvenile is determined to be incompetent to proceed but may be restored to competency, the court shall retain jurisdiction of the juvenile for up to six (6) months. A restoration order issued pursuant to this section is valid for six (6) months from the date of the initial finding of incompetency or until one (1) of the following, whichever occurs first:

(a) The restoration program submits a report that the juvenile has become competent to proceed or that there is no substantial probability that the juvenile will regain competency within the period the order is valid;

(b) The charges are dismissed; or

(c) The juvenile reaches twenty-one (21) years of age.

(9) The court may extend the restoration order beyond six (6) months upon a showing of good cause. If the juvenile reaches twenty-one (21) years of age, the matter shall be dismissed. If the court concludes that there is no substantial probability that the juvenile will regain competency within the period the order is valid, then the provisions of subsection (5) of this section shall apply.

[20-519B, added 2011, ch. 178, sec. 2, p. 507.]

20-519C. RESTORATION REPORTS -- HEARINGS. (1) A report shall be filed by the restoration provider at least every ninety (90) days or whenever the restoration provider believes the juvenile is competent to proceed or whenever the restoration provider believes there is no substantial probability that the juvenile will regain competency before the expiration of the order to participate in a competency restoration program or fourteen (14) days before expiration of the restoration order.

(2) The court shall hold a review hearing regarding the progress towards competency at least every ninety (90) days while the juvenile participates in a restoration program. The court may consider the restoration provider's report at the review hearing to assess the juvenile's progress and to determine whether restoration services should continue.

[20-519C, added 2011, ch. 178, sec. 3, p. 509.]

20-519D. ADMISSIBILITY OF STATEMENTS BY EXAMINED OR TREATED JUVENILE. A statement made by a juvenile subject to a competency examination or restoration treatment pursuant to section 20-519A or 20-519B, Idaho Code, for the purposes of such examination or treatment shall not be admissible in evidence in any delinquency or criminal proceeding against the juvenile on any issue other than the juvenile's ability to assist counsel at trial or to form any specific intent which is an element of the crime charged, except that such statements of a juvenile to the examiner, evaluation committee or restoration provider as are relevant for impeachment purposes may be received subject to the usual rules of evidence governing matters of impeachment.

[20-519D, added 2011, ch. 178, sec. 4, p. 510.]

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile offender is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court may request and, if requested, shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile offender. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile offender as follows:

(a) Place the juvenile offender on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile offender on formal probation for a period not to exceed the juvenile offender's twenty-first birthday if the court finds

that the juvenile offender has committed a crime of a sexual nature. If a juvenile offender is committed to the Idaho department of juvenile corrections pursuant to paragraph (r) of this subsection, the court may place the juvenile offender on probation from the date of sentencing up to three (3) years past the date of release from custody or the juvenile offender's twenty-first birthday, whichever occurs first; provided the court shall conduct a review hearing within thirty (30) days following release of the juvenile offender from the department of juvenile corrections in order to determine the conditions and term of such probation;

(b) Sentence the juvenile offender to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of 18 U.S.C. section 922(x), or the court finds that the juvenile offender has violated the court's decree imposing the sentence as provided in this subsection.

If the court, after notice and hearing, finds that a juvenile offender has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile offender to detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile offender to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile offender is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile offender has been adjudicated as an habitual status offender;

(d) If the juvenile offender has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the juvenile offender to detention for a period not to exceed one hundred eighty (180) days for each unlawful or criminal act;

(e) Whenever a court commits a juvenile offender to a period of detention, the juvenile detention center shall notify the school district where the detention center is located. No juvenile offender who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless an adjudication has been made that the juvenile offender is an habitual status offender;

(f) Commit the juvenile offender to detention and suspend the sentence on specific probationary conditions;

(g) The court may suspend or restrict the juvenile offender's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the juvenile offender's driver's license. The juvenile offender may request restricted driving privileges during a period of suspension, which the court may allow if the juvenile offender shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

(h) The court may order that the juvenile offender be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug

evaluation, if needed, and for such purposes may place the juvenile offender in a hospital or other suitable facility;

(i) The court may order that the county probation office authorize a comprehensive substance abuse assessment of the juvenile offender. After receiving the comprehensive substance abuse assessment, and upon a finding by the court that treatment will provide a cost-effective means of achieving the sentencing goals of accountability, competency development and community protection, the court may order that the juvenile offender receive immediate treatment for substance abuse in keeping with a plan of treatment approved by the court. The initial cost of the assessment and treatment shall be borne by the department of juvenile corrections with funds allocated to the county probation office. The director of the department of juvenile corrections may promulgate rules consistent with this paragraph to establish a schedule of fees to be charged to parents by the county probation office for such services based upon the cost of the services and the ability of parents to pay;

(j) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile offender, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile offender's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

(k) The court may make any other reasonable order which is in the best interest of the juvenile offender or is required for the protection of the public, except that no person under the age of eighteen (18) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(l) An order under the provisions of this section for probation or placement of a juvenile offender with an individual or an agency may provide a schedule for review of the case by the court;

(m) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(n) Order the case and all documents and records connected therewith transferred to the magistrate division of the district court for the county where the juvenile offender and/or parents reside if different than the county where the juvenile offender was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

(o) Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the juvenile offender and the community;

(p) The court shall assess a twenty dollar (\$20.00) detention/probation training academy fee against the juvenile offender for every petition filed where there has been an adjudication that the juvenile offender is within the purview of this chapter. All moneys raised pursuant to this paragraph shall be transmitted by the court for deposit in

the juvenile corrections fund which is created in section 20-542, Idaho Code;

(q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile offender for every petition filed where there has been an adjudication that the juvenile offender is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required;

(r) Commit the juvenile offender to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile offender's nineteenth birthday, unless the custody review board determines that extended time in custody is necessary to address competency development, accountability, and community protection; provided however, that no juvenile offender shall remain in the custody of the department beyond the juvenile offender's twenty-first birthday. The department shall adopt rules implementing the custody review board and operations and procedures of such board. Juvenile offenders convicted as adults and placed in the dual custody of the department of juvenile corrections and the state board of correction under section 19-2601A, Idaho Code, are under the retained jurisdiction of the court and are not within the purview of the custody review board;

(s) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the juvenile offender shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the juvenile offender resides or is committed, or by an appointed agent. When committing a juvenile offender to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the juvenile offender or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile offender's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code. Court-ordered restitution shall be paid prior to any other court-ordered payments unless the court specifically orders otherwise. The clerk of the district court, with the approval of the administrative district judge, may use the procedures set forth in section 19-4708, Idaho Code, for the collection of the restitution.

(4) The court may order the juvenile offender's parents or custodian to pay the charges imposed by community programs ordered by the court for the juvenile offender, or the juvenile offender's parents or custodian.

(5) Any parent, legal guardian or custodian violating any order of the court entered against the person under the provisions of this chapter shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

[20-520 added 1996, ch. 301, sec. 2, p. 989; am. 1996, ch. 301, sec. 3, p. 992; am. 1996, ch. 359, sec. 2, p. 1209; am. 1997, ch. 76, sec. 1, p. 158; am. 1997, ch. 262, sec. 1, p. 747; am. 1999, ch. 155, sec. 1, p. 431; am. 2000, ch. 329, sec. 1, p. 1106; am. 2000, ch. 466, sec. 1, p. 1444; am. 2001, ch. 15, sec. 1, p. 17; am. 2002, ch. 73, sec. 1, p. 160; am. 2002, ch. 97, sec. 1, p. 265; am. 2002, ch. 309, sec. 1, p. 880; am. 2007, ch. 308, sec. 1, p. 862; am. 2008, ch. 41, sec. 1, p. 96; am. 2009, ch. 102, sec. 3, p. 313; am. 2009, ch. 154, sec. 2, p. 449; am. 2012, ch. 19, sec. 16, p. 54; am. 2012, ch. 257, sec. 6, p. 712; am. 2015, ch. 87, sec. 1, p. 213; am. 2015, ch. 113, sec. 8, p. 291.]

20-520A. DISMISS AND DISCHARGE UPON COMPLETION OF AUTHORIZED DRUG, MENTAL HEALTH OR OTHER AUTHORIZED PROBLEM SOLVING COURT PROGRAM. If a juvenile offender has successfully completed and graduated from an authorized juvenile drug court program, juvenile mental health court program or other authorized problem solving court program and, during any period of probation that may have been served following such graduation, has satisfied the terms or conditions of the probation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the juvenile's sentence, set aside the adjudication of the juvenile offender finding the juvenile offender within the purview of the juvenile corrections act, and finally dismiss the case and discharge the juvenile offender from the jurisdiction of the court. This section shall apply to the cases in which juvenile offenders have been found within the purview of the juvenile corrections act before the effective date of this section, as well as to cases that arise on or after the effective date of this section.

[20-520A, added 2014, ch. 345, sec. 2, p. 866.]

20-521. HABITUAL STATUS OFFENDER. (1) Any juvenile offender who has been adjudicated for commission of two (2) status offenses within twelve (12) months may be charged, petitioned and adjudicated as an habitual status offender for the third status offense committed within that twelve (12) month period.

(2) The court may utilize any dispositional alternative for an habitual status offender that is detailed in section 20-520, Idaho Code, except that the juvenile offender shall not be placed in an Idaho juvenile correctional center.

[(20-521) 1984, ch. 81, sec. 11, p. 155; am. and redesig. 1995, ch. 44, sec. 22, p. 90; am. 2012, ch. 19, sec. 17, p. 57.]

20-522. JURISDICTION OVER PARENTS. Whenever a juvenile offender is found to come under the purview of this chapter, the court shall have jurisdiction and authority to have the juvenile offender and the juvenile offender's parent(s), legal guardian or custodian sign a probationary contract with the court containing terms and conditions that the juvenile offender and the juvenile offender's parent(s), legal guardian or custodian must adhere to as a condition of the juvenile offender's probation. The probationary contract may provide that upon a violation or breach of the

terms and conditions of the probationary contract, the juvenile offender's parent(s), legal guardian or custodian shall be liable to the court for a specific monetary sum not in excess of one thousand dollars (\$1,000) for the breach of contract. All such moneys shall be payable to the court and shall be in addition to any other fines, penalties or other sanctions provided by law. Any moneys received by the court pursuant to this section shall be paid into the juvenile corrections fund created in section 20-542, Idaho Code. In lieu of or in addition to a monetary payment, the court may order that the parent(s), legal guardian or custodian attend parenting classes or undergo other treatment or counseling. Any person violating any order of the court entered under the provisions of this section shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

[(20-522) 1989, ch. 155, sec. 6, p. 379; am. and redesig. 1995, ch. 44, sec. 23, p. 90; am. 1995, ch. 277, sec. 7, p. 936; am. 1996, ch. 359, sec. 3, p. 1211; am. 2001, ch. 15, sec. 2, p. 19; am. 2012, ch. 19, sec. 18, p. 57.]

20-523. SCREENING TEAMS TO PROVIDE ASSISTANCE TO COURT. In order to provide assistance to a court in making a disposition pursuant to section 20-520, Idaho Code, a screening team composed of a county probation officer or other investigation officer or agency designated by the court may meet and provide a written recommendation delineating options to the court for disposition of the case pursuant to this chapter.

[(20-523) 1989, ch. 155, sec. 7, p. 380; am. and redesig. 1995, ch. 44, sec. 24, p. 90; am. 1995, ch. 277, sec. 8, p. 936.]

20-524. SUPPORT OF JUVENILE OR JUVENILE OFFENDER -- REIMBURSEMENT FOR COSTS INCURRED. (1) Whenever a juvenile or juvenile offender is placed by the court in custody other than that of his or her parents or custodian, after due notice to the parent or other persons legally obligated to care for and support the juvenile or juvenile offender, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the juvenile or juvenile offender. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(2) If the juvenile or juvenile offender is detained, the court may order that the parents of the juvenile or juvenile offender or other legally obligated person contribute to the costs of detention in an amount to be set by the court. The order may be filed and shall have the effect of a civil judgment. It is the intent of the legislature that foster parents or a parent or legal guardian receiving public assistance relating to that juvenile or juvenile offender should not benefit from the continued receipt of payments or public assistance from any state or federal agency while the juvenile or juvenile offender is detained. The department of health and welfare is directed to promulgate a rule implementing this intent.

[(20-524) 1984, ch. 81, sec. 12, p. 156; am. 1986, ch. 222, sec. 9, p. 609; am. 1990, ch. 361, sec. 5, p. 977; am. 1992, ch. 194, sec. 1, p. 603; am. and redesig. 1995, ch. 44, sec. 25, p. 91; am. 1995, ch. 354, sec. 1, p. 1198; am. 1997, ch. 82, sec. 2, p. 194; am. 1998, ch. 292, sec. 4, p. 931; am. 2004, ch. 50, sec. 3, p. 238; am. 2012, ch. 19, sec. 19, p. 57; am. 2012, ch. 257, sec. 7, p. 715.]

20-524A. DEPARTMENT'S PAYMENT OF DETENTION COSTS. If the juvenile offender is committed to the custody of the department of juvenile corrections pursuant to chapter 5, title 20, Idaho Code, the department shall reimburse the county for the period of time in excess of five (5) calendar days during which the juvenile offender is housed at a detention center. This time period shall begin to run on the first business day the department receives a copy of the order of commitment, executed by the court. Orders received by the department after 3 o'clock p.m., mountain standard time, on a business day, will be considered to have been received the next business day. Facsimile transmissions of the order are acceptable.

[20-524A, added 2004, ch. 50, sec. 4, p. 239; am. 2012, ch. 19, sec. 20, p. 58.]

20-525. RECORDS -- PRIVILEGED INFORMATION. (1) The court shall maintain records of all cases brought before it. In proceedings under this act the following juvenile courtroom proceedings and records shall be open to the public: all proceedings against a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult including the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(2) Juvenile courtroom proceedings and records shall remain confidential when the court and the prosecutor agree extraordinary circumstances exist that justify records of a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult should remain confidential because it is in the best interest of the juvenile offender.

(3) In proceedings under this act the following records and court proceedings of juvenile offenders of the age of thirteen (13) years or younger shall not be withheld from public inspection, except on court order, which order must be made in writing in each case: the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(4) These records shall be open to inspection according to chapter 1, title 74, Idaho Code. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall be subject to disclosure according to chapter 1, title 74, Idaho Code.

(5) The victim of misconduct shall always be entitled to the name of the juvenile offender involved, the name of the juvenile offender's parents or guardian, and their addresses and telephone numbers, if available in the records of the court.

(6) Notwithstanding the other provisions of this act and notwithstanding any order entered pursuant hereto, nothing in this act shall prohibit the exchange of records created pursuant to this act between prosecuting attorneys or courts in this state.

[(20-525) 1963, ch. 319, sec. 16, p. 876; am. 1977, ch. 156, sec. 4, p. 404; am. 1990, ch. 213, sec. 12, p. 498; am. 1990, ch. 245, sec. 2, p.

698; am. 1994, ch. 326, sec. 2, p. 1052; am. and redesiɡ. 1995, ch. 44, sec. 26, p. 91; am. 1997, ch. 258, sec. 1, p. 732; am. 2012, ch. 19, sec. 21, p. 58; am. 2015, ch. 141, sec. 26, p. 406.]

20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY -- SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in a case under this act and found to be within the purview of the act for having committed a felony offense or having been committed to the department of juvenile corrections may, after the expiration of five (5) years from the date of termination of the continuing jurisdiction of the court, or, in case the juvenile offender was committed to the juvenile correctional center, five (5) years from the date of his release from the juvenile correctional center, or after reaching age eighteen (18) years, whichever occurs last, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and of the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(2) Any person who has been adjudicated in a case under this act and found to be within the purview of the act for having committed misdemeanor or status offenses only and not having been committed to the department of juvenile corrections may, after the expiration of one (1) year from the date of termination of the continuing jurisdiction of the court or after reaching age eighteen (18) years, whichever occurs later, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(3) In any case where the prosecuting attorney has elected to utilize the diversion process or the court orders an informal adjustment pursuant to section 20-511, Idaho Code, the person may, after the expiration of one (1) year from the date of termination of the continuing jurisdiction of the court or after reaching age eighteen (18) years, whichever occurs later, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(4) The court may not expunge a conviction for any of the following crimes from a juvenile offender's record:

- (a) Administering poison with intent to kill (18-4014, Idaho Code);
- (b) Aggravated battery (18-907, Idaho Code);
- (c) Armed robbery (chapter 65, title 18, Idaho Code);
- (d) Arson (chapter 8, title 18, Idaho Code);
- (e) Assault with intent to commit a serious felony (18-909, Idaho Code);
- (f) Assault with intent to murder (18-4015, Idaho Code);
- (g) Assault or battery upon certain personnel, felony (18-915, Idaho Code);
- (h) Forcible sexual penetration by use of a foreign object (18-6608, Idaho Code);

- (i) Infamous crime against nature, committed by force or violence (18-6605, Idaho Code);
- (j) Injury to child, felony (18-1501, Idaho Code);
- (k) Kidnapping (18-4501, Idaho Code);
- (l) Murder of any degree (18-4001 and 18-4003, Idaho Code);
- (m) Rape, excluding statutory rape (18-6101, Idaho Code);
- (n) Ritualized abuse of a child (18-1506A, Idaho Code);
- (o) Sexual exploitation of a child (18-1507, Idaho Code);
- (p) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- (q) Voluntary manslaughter (18-4006 1., Idaho Code);
- (r) A violation of the provisions of section 37-2732(a) (1) (A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;
- (s) A violation of the provisions of section 37-2732B, Idaho Code, related to drug trafficking or manufacturing of illegal drugs.

(5) If the court finds after hearing that the petitioner has not been adjudicated as a juvenile offender for any of the crimes identified in subsection (4) of this section, and has not been convicted of a felony, or of a misdemeanor wherein violence toward another person was attempted or committed since the termination of the court's jurisdiction or his release from the juvenile correctional center, and that no proceeding involving such felony or misdemeanor is pending or being instituted against him, and if the court further finds to its satisfaction that the petitioner has been held accountable, is developing life skills necessary to become a contributing member of the community and that the expungement of the petitioner's record will not compromise public safety, it shall order all records in the petitioner's case in the custody of the court and all such records, including law enforcement investigatory reports and fingerprint records, in the custody of any other agency or official sealed; and shall further order all references to said adjudication, diversion or informal adjustment removed from all indices and from all other records available to the public. However, a special index of the expungement proceedings and records shall be kept by the court ordering expungement, which index shall not be available to the public and shall be revealed only upon order of a court of competent jurisdiction. Copies of the order shall be sent to each agency or official named in the order. Upon the entry of the order the proceedings in the petitioner's case shall be deemed never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter be permitted only by the court upon petition by the person who is the subject of the records, or by any other court of competent jurisdiction, and only to persons named in the petition.

[(20-525A) 16-1618A, as added by 1969, ch. 299, sec. 1, p. 899; am. and redesig. 1995, ch. 277, sec. 9, p. 937; am. 1999, ch. 248, sec. 1, p. 636; am. 2004, ch. 160, sec. 1, p. 525; am. 2005, ch. 92, sec. 1, p. 311; am. 2012, ch. 19, sec. 22, p. 59; am. 2016, ch. 296, sec. 14, p. 843.]

20-526. ENCOURAGING VIOLATIONS. Any person who by any act or neglect encourages, aids or causes a juvenile to come within the purview or jurisdiction of this chapter, or who after notice that the driving privileges of the juvenile offender have been suspended or restricted under the provisions of

this chapter knowingly permits or encourages said juvenile offender to operate a motor vehicle in violation of such suspension or restriction, shall be guilty of a misdemeanor. The court may impose conditions upon any person found guilty under this section, and so long as such person shall comply therewith to the satisfaction of the court, the sentence imposed may be suspended.

[(20-526) 1963, ch. 319, sec. 17, p. 876; am. 1977, ch. 156, sec. 5, p. 405; am. and redesign. 1995, ch. 44, sec. 27, p. 92; am. 2012, ch. 19, sec. 23, p. 60.]

20-527. SCHOOL TRUSTEES TO REPORT TRUANTS. When a juvenile of compulsory school age is expelled or is reported to have repeatedly violated the attendance regulations of the school district in which the juvenile is enrolled, pursuant to section 33-206, Idaho Code, the prosecuting attorney may file a petition under this act. The court shall cause an investigation to be made and upon receipt of the written report of the investigation, the court may proceed under this act or the child protective act with respect to the juvenile and may proceed against the juvenile's parent(s), guardian or custodian under this act pursuant to section 33-207, Idaho Code.

[(20-527) 1963, ch. 319, sec. 18, p. 876; am. and redesign. 1995, ch. 44, sec. 28, p. 92; am. 2002, ch. 348, sec. 3, p. 996.]

20-528. APPEALS. All orders or final judgments made by any court in matters affecting a juvenile offender within the purview of this act may be appealed by the juvenile offender or the state. A decision by the court pursuant to section 20-508, Idaho Code, not to waive jurisdiction under this act over the juvenile offender may be appealed by the state. Appeals shall be reviewed as provided by the appellate rules of the supreme court of Idaho, except no undertaking shall be required. Upon filing of the notice of appeal, the district court shall take jurisdiction of the case and if the juvenile offender is in detention shall promptly hold a hearing after the filing of a request to determine whether the juvenile offender shall remain in detention.

[(20-528) 1963, ch. 319, sec. 19, p. 876; am. 1971, ch. 170, sec. 3, p. 805; am. 1980, ch. 134, sec. 1, p. 293; am. and redesign. 1995, ch. 44, sec. 29, p. 92; am. 1997, ch. 54, sec. 1, p. 92; am. 2012, ch. 19, sec. 24, p. 61.]

20-529. APPOINTMENT OF COUNTY PROBATION OFFICERS. The courts in the several counties of this state shall enter into a contract or agreement for probation services to the counties or, if the court deems local probation services are preferable, may appoint one (1) or more persons to serve as probation officers at the expense of the county with the concurrence of the county commissioners.

[(20-529) 1963, ch. 319, sec. 20, p. 876; am. 1976, ch. 272, sec. 1, p. 920; am. and redesign. 1995, ch. 44, sec. 30, p. 93.]

20-530. REASSESSMENT OF COMMITTED JUVENILE OFFENDERS -- RECORDS -- FAILURE TO REASSESS. (1) The department shall make periodic reassessments of all juvenile offenders committed to it for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. Assessments may be made as frequently as the department considers desirable and shall be made with respect to every

juvenile offender at intervals not exceeding one (1) year. Reports of periodic reassessments made pursuant to this section shall be filed with the court from which the juvenile offender was committed.

(2) The department shall keep written records of assessments, prognosis, and all orders concerning disposition or treatment of every juvenile offender committed to it.

(3) Failure of the department to assess a committed juvenile offender or to reassess him within one (1) year of a previous assessment shall not of itself entitle the juvenile offender to discharge from the control of the department but shall entitle him to petition the committing court for an order of discharge and the court shall discharge him unless the department satisfies the court of the need for further control.

[(20-530) 1963, ch. 319, sec. 23, p. 876; am. and redesign. 1995, ch. 44, sec. 32, p. 93; am. 2012, ch. 19, sec. 25, p. 61.]

20-531. SECURE FACILITIES. (1) The department shall maintain and operate secure facilities for the custody of juvenile offenders who pose a danger of serious bodily harm to others or who have engaged in a pattern of serious criminal offenses, and who cannot be controlled in a less secure setting.

(2) The department shall provide or make available to juvenile offenders in secure facilities, instruction appropriate to the age, needs and range of abilities of the juvenile offenders. An assessment shall be made of each juvenile offender at the secure facility to determine abilities, learning disabilities, interests, attitudes and similar matters. Training in the development of competency and life skills designed to assist the juvenile offender in operating effectively within and becoming a contributing member of the community shall be provided. Prevocational education shall be provided to acquaint juvenile offenders with vocations, their requirements and opportunities.

(3) The department shall place juvenile offenders committed to the department in a state or privately operated secure facility that provides humane care and developmental opportunities for the juvenile offender while promoting accountability and community protection.

(4) The department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. Such standards, policies and procedures shall not be inconsistent with law. Policies shall be promulgated as rules in compliance with chapter 52, title 67, Idaho Code.

[(20-531) 1989, ch. 155, sec. 9, p. 382; am. and redesign. 1995, ch. 44, sec. 34, p. 94; am. 2012, ch. 19, sec. 26, p. 61.]

20-532. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. A juvenile offender committed to a secure facility shall remain until the juvenile offender reaches nineteen (19) years of age, is retained for extended custody pursuant to section 20-520(1)(r), Idaho Code, or is released or discharged. A juvenile offender committed to a secure facility shall appear before the department within ninety (90) days after commitment, for review of treatment plans.

[(20-532) 1989, ch. 155, sec. 9, p. 382; am. and redesign. 1995, ch. 44, sec. 35, p. 94; am. 2002, ch. 309, sec. 2, p. 883; am. 2007, ch. 308, sec. 4, p. 869; am. 2012, ch. 19, sec. 27, p. 62.]

20-532A. ORDER FOR APPREHENSION AND DETENTION OF ESCAPEES FROM CUSTODY. Upon a finding by the Idaho department of juvenile corrections that a

juvenile offender in the custody of the department has escaped, as described in section 18-2505(2) or 18-2506(2), Idaho Code, a written order signed by the director or his designee shall be a sufficient order for detention for any law enforcement officer to apprehend and take into custody such person. It is hereby made the duty of all sheriffs, police, constables, parole officers, prison officials and other peace officers to execute such order. From and after the issuance of the detention order and until taken into custody, the escapee shall be considered a fugitive from justice. Upon apprehension, the juvenile offender shall be detained in the closest available detention center and shall thereafter be transported by the department as soon as possible or, at the discretion of the detaining authority, the juvenile offender may be transported directly by that authority to the department's nearest regional facility.

[20-532A, added 2000, ch. 105, sec. 1, p. 234; am. 2004, ch. 50, sec. 5, p. 239; am. 2012, ch. 19, sec. 28, p. 62; am. 2018, ch. 158, sec. 1, p. 315.]

20-533. RELEASE FROM CUSTODY OF THE DEPARTMENT. (1) The department shall determine an appropriate date for release of the juvenile offender from the custody of the department, based upon guidelines established by the department. The department shall review and update policy guidelines annually.

(2) Juvenile offenders may be released to their own home, to a residential community-based program, to a nonresidential community-based treatment program, to an approved independent living setting, or to other appropriate residences, but shall remain on probation until the probation is terminated by the court. Following the release of a juvenile offender, the court may conduct a hearing to review the juvenile offender's conditions of probation and determine whether existing conditions should be amended or eliminated or additional conditions imposed.

(3) County probation officers shall enforce probation conditions and supervise juvenile offenders while on probation. As authorized by court order, probation officers may establish additional reasonable conditions of probation with which the juvenile offender must comply. The juvenile offender may move for a hearing before the court to contest any conditions imposed by the probation officer. If the probation officer establishes additional conditions of probation, the probation officer shall advise the juvenile offender at the time such additional conditions are imposed of the juvenile offender's right to move the court for a hearing to contest those conditions.

(4) When the department is considering release of a juvenile offender committed to the department for confinement, the department shall notify the prosecuting attorney of the county from which the juvenile offender was committed to confinement, the judge whose order caused the juvenile offender to be committed to confinement and the victims of the juvenile offender's unlawful conduct. Notice shall also be given to the same parties upon the actual release of the juvenile offender from the department's custody.

[(20-533) 1989, ch. 155, sec. 9, p. 383; am. and redesig. 1995, ch. 44, sec. 36, p. 94; am. 2012, ch. 19, sec. 29, p. 62; am. 2018, ch. 157, sec. 1, p. 314.]

20-533A. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AUTHORIZED -- CONFIDENTIALITY OF RECORDS. (1) All meetings of the custody re-

view board of the Idaho department of juvenile corrections shall be held in accordance with the open meetings law as provided in chapter 2, title 74, Idaho Code, provided however:

(a) Deliberations and decisions of the board concerning whether or not a juvenile offender shall be held in custody of the Idaho department of juvenile corrections for an extended period of time past his or her nineteenth birthday may be made in executive session; and

(b) Votes of individual members in custody decisions shall not be made public, provided that the board shall maintain a record of the votes of the individual members as required in subsection (2) of this section.

(2) A written record of the vote to retain the juvenile offender in custody for an extended period of time by each board member in each case reviewed by that member shall be produced by the board. Such record shall be kept confidential and privileged from disclosure, provided the record shall be made available upon request to the governor, the chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee for all lawful purposes.

(3) A board member or employee of the Idaho department of juvenile corrections who distributes to any person not specifically listed in this section any hearing information or records that are legally required to be kept confidential shall be guilty of a misdemeanor.

(4) Nothing contained in this section shall prevent any person from obtaining the results of any action by the board or director of the Idaho department of juvenile corrections without reference to the manner in which any member voted, and the board shall make such information public unless doing so would violate public records laws.

(5) Nothing contained in this section shall prevent the director, designated staff of the director, the governor, the chairman of the senate judiciary and rules committee or the chairman of the house of representatives judiciary, rules and administration committee from attending any meeting, including any executive session, of the custody review board.

[20-533A, added 2003, ch. 164, sec. 2, p. 465; am. 2012, ch. 19, sec. 30, p. 63; am. 2017, ch. 58, sec. 10, p. 106; am. 2017, ch. 87, sec. 1, p. 234.]

20-534. MAGISTRATE COURT PROBATION SECTIONS TO FURNISH INFORMATION TO DEPARTMENT. Probation sections of the magistrate division of the district court shall render full and complete cooperation to the department in supplying the department with all pertinent information relating to juvenile offenders committed to the department. This information may include, without limitation, prior criminal history, social history, psychological evaluations, and identifying information specified by the department.

[(20-534) 1989, ch. 155, sec. 9, p. 385; am. and redesig. 1995, ch. 44, sec. 38, p. 95.]

20-535. REVIEW OF PROGRAMS FOR JUVENILE OFFENDERS -- CERTIFICATION. The department shall annually review all state operated or state contracted programs which provide services to juvenile offenders and certify compliance with standards provided by the department. Written reviews shall be provided to the managers of those programs. Based upon policies established by the department, those programs which are unable or unwilling to comply with approved standards may not be certified. Any person owning

or operating a private facility who willfully fails to comply with the standards established by the department shall be guilty of a misdemeanor.

[(20-535) 1989, ch. 155, sec. 9, p. 385; am. and redesign. 1995, ch. 44, sec. 39, p. 96; am. 2012, ch. 19, sec. 31, p. 63.]

20-536. CONTRACTS WITH PRIVATE PROVIDERS OF SERVICES FOR JUVENILE OFFENDERS -- CERTIFICATION REQUIRED. Nothing in this chapter shall prohibit the department from contracting with private providers or other entities for the provision of care, treatment and supervision of juvenile offenders committed to the custody of the department, if these programs are certified as in compliance with department standards within six (6) months after commencing operation.

[(20-536) 1989, ch. 155, sec. 9, p. 386; am. and redesign. 1995, ch. 44, sec. 40, p. 96.]

20-537. PROGRAM RECORDS AS PROPERTY OF DEPARTMENT -- CONTROL OF RECORDS. All records maintained by providers under contract with the department to provide services to juvenile offenders are the property of the department and shall be returned to it when the juvenile offenders are terminated from the provider's programs. The department shall maintain an accurate audit trail of information provided to other programs, providers or agencies regarding juvenile offenders under its jurisdiction.

[(20-537) 1989, ch. 155, sec. 9, p. 386; am. and redesign. 1995, ch. 44, sec. 41, p. 96.]

20-538. RESTITUTION TO VICTIMS OF JUVENILE OFFENDERS -- DUTIES OF DEPARTMENT. (1) The department or county probation shall make reasonable efforts to ensure that restitution is made to the victim of the juvenile offender. Restitution may be made through the employment of juvenile offenders in work programs or directly to the person; provided, however, that reimbursement to the victim is conditional upon the juvenile offender's involvement in such program.

(2) Restitution may be made a condition of probation.

[(20-538) 1989, ch. 155, sec. 9, p. 386; am. and redesign. 1995, ch. 44, sec. 42, p. 96.]

20-539. CREATION OF FUND. There is hereby created in the state treasury a fund known as the "juvenile corrections victim restitution fund," which shall be administered by the department. Moneys in the fund shall consist of wage payments made to juvenile offenders in work programs, appropriations and moneys received by the department from whatever source. Moneys in the fund shall be utilized to provide full or partial restitution to victims of the juvenile offender's delinquent behavior.

[(20-539) 1989, ch. 155, sec. 9, p. 386; am. and redesign. 1995, ch. 44, sec. 43, p. 97; am. 2001, ch. 14, sec. 1, p. 16.]

20-539A. DISTRIBUTION AND REPORTING REQUIREMENTS FOR STATE, OTHER PUBLIC AND PRIVATE CONTRACT FACILITIES. Each facility housing juvenile offenders in department custody, whether a state, other public or private contract facility, shall comply with the following requirements for disbursement and reporting:

(1) State facilities, upon receiving any moneys credited to a juvenile offender in its custody, shall deposit the funds in the juvenile corrections victim restitution fund pursuant to section 20-539, Idaho Code.

(2) Other public or private contract facilities housing juvenile offenders in department custody, upon receiving any moneys credited to or earned by a juvenile offender at the facility, shall directly distribute the moneys on or before the first day of each calendar quarter to the county court that committed the juvenile offender to department custody. Upon remitting moneys to a county on behalf of a juvenile offender, the facility shall report the direct distribution to the department for inclusion in the department's records.

[20-539A, added 2001, ch. 14, sec. 2, p. 16; am. 2012, ch. 19, sec. 32, p. 64.]

20-540. REPORTS BY DEPARTMENT. When a juvenile offender has been committed to the department pursuant to this chapter, the department shall supply a report of the juvenile offender's educational and developmental progress to the committing court as often as the court deems necessary in its order of commitment, but not less frequently than every three (3) months.

[(20-540) 1989, ch. 155, sec. 9, p. 387; am. and redesign. 1995, ch. 44, sec. 45, p. 97.]

20-541. SPECIAL COMMISSIONER -- DUTIES. The court shall be authorized to appoint a special commissioner to assist in the conduct of proceedings under this chapter. In any case in which the court refers a petition to the commissioner, the commissioner shall promptly cause the matter to be investigated and on the basis thereof shall either recommend dismissal of the petition or hold a hearing as provided in this act and make recommendations to the court regarding the disposition of the matter. Such commissioner shall be paid for services rendered on order of the court from county funds in such amount as is determined by the court.

[(20-541) 1989, ch. 155, sec. 9, p. 387; am. and redesign. 1995, ch. 44, sec. 47, p. 97.]

20-542. JUVENILE CORRECTIONS FUND -- CREATION. There is hereby created in the state treasury, the juvenile corrections fund. Moneys in the fund shall be utilized by the department for construction and administration of facilities under the jurisdiction of the department of juvenile corrections, for assistance to a county or series of counties in constructing, contracting for or administering detention facilities for juvenile offenders, to coordinate training for juvenile detention officers and/or juvenile probation officers, and for alternative programs designed to help juveniles avoid the traditional juvenile corrections system. All moneys in the fund may be expended only pursuant to appropriation by the legislature.

[(20-542) 1989, ch. 155, sec. 9, p. 388; am. and redesign. 1995, ch. 44, sec. 48, p. 98; am. 1999, ch. 155, sec. 2, p. 434; am. 2001, ch. 15, sec. 3, p. 20; am. 2012, ch. 19, sec. 33, p. 64.]

20-547. CONSTRUCTION OF ACT -- CITATION OF ACT -- OTHER CODE REFERENCES CONSTRUED. This act shall be liberally construed to the end that the legislative policy expressed herein is achieved. This act may be cited as the "Juvenile Corrections Act of 1995."

[(20-547) 1989, ch. 155, sec. 9, p. 387; am. and redesig. 1995, ch. 44, sec. 54, p. 100; am. 1995, ch. 277, sec. 12, p. 938; am. 2012, ch. 19, sec. 34, p. 64.]

20-548. COMPENSATION -- AMOUNT -- CREDITING ACCOUNT OF JUVENILE OFFENDER -- JUVENILE OFFENDERS NOT EMPLOYEES. Each juvenile offender who is engaged in productive work under the jurisdiction of the director of the department of juvenile corrections may receive for this work such compensation as the director shall determine, to be paid out of any funds available in the department of juvenile corrections competency development account. After payment of restitution pursuant to section 20-538, Idaho Code, compensation shall be credited to the account of the juvenile offender to be used for payment of fines, reimbursement to the department of juvenile corrections for expenses directly related to that juvenile offender, and upon certain circumstances, payment to the juvenile offender upon release from the department of juvenile corrections.

No juvenile offender compensated under this act shall be considered an employee of the state or the department of juvenile corrections, nor shall any juvenile offender come within any of the provisions of the worker's compensation law, or be entitled to any benefits thereunder whether on behalf of himself or any other person.

[20-548, added 1997, ch. 265, sec. 1, p. 756; am. 2012, ch. 19, sec. 35, p. 64.]

20-549. CURFEW VIOLATIONS -- CITATION -- NOTIFICATION. Violation by a juvenile offender of a curfew established by a municipal or county ordinance shall constitute an infraction and shall be punishable by a fine of one hundred fifty dollars (\$150). Fines shall be deposited in the county juvenile justice fund of the county where the violation occurred, or if such a fund has not been established, then in the current county expense account for juvenile corrections purposes in the county where the violation occurred. Detention of a juvenile offender in a county jail or detention center for violation of a curfew is prohibited, unless the juvenile offender is an habitual status offender as defined in section 20-521, Idaho Code.

Any peace officer may issue a citation for violation of a curfew that shall thereafter proceed under the juvenile corrections act in the same manner as though the violation was charged by a petition. Citations shall be issued on the Idaho uniform citation form. The peace officer issuing a curfew citation may detain the violator and at the time the citation is issued shall make a reasonable effort to obtain the endorsement of the juvenile's parent or legal guardian on the citation. If the endorsement of a parent or legal guardian cannot be obtained with the exercise of reasonable diligence, a copy of the citation shall be hand delivered or mailed to the juvenile's parent or legal guardian by a peace officer at least seven (7) days prior to the date set for the juvenile's appearance. The citation shall provide a date certain for the appearance before a magistrate of the juvenile and parent or legal guardian.

[20-549, added 1998, ch. 391, sec. 1, p. 1196; am. 2000, ch. 74, sec. 2, p. 158; am. 2012, ch. 19, sec. 36, p. 65; am. 2015, ch. 197, sec. 1, p. 607.]