

IN THE SENATE

SENATE BILL NO. 1239

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO JUVENILE CORRECTIONS; AMENDING SECTION 20-520, IDAHO CODE, TO REMOVE A PROVISION REGARDING COURT REVIEW OF A CERTAIN REPORT AND TO REMOVE REFERENCE TO DETENTION IN A JAIL FACILITY.

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

SECTION 1. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

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.

1 If the court, after notice and hearing, finds that a juvenile of-
2 fender has violated the court's decree imposing the sentence under cir-
3 cumstances that bring the violation under the valid court order excep-
4 tion of the federal juvenile justice and delinquency prevention act of
5 1974, as amended, the court may commit the juvenile offender to deten-
6 tion for the period of detention previously imposed at sentencing;

7 (c) Commit the juvenile offender to a period of detention, pursuant to
8 this act, for a period of time not to exceed ninety (90) days for each un-
9 lawful or criminal act the juvenile offender is found to have committed,
10 if the unlawful or criminal act would be a misdemeanor if committed by an
11 adult, or where the juvenile offender has been adjudicated as an habit-
12 ual status offender;

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

17 (e) Whenever a court commits a juvenile offender to a period of deten-
18 tion, the juvenile detention center shall notify the school district
19 where the detention center is located. No juvenile offender who is
20 found to come within the purview of the act for the commission of a sta-
21 tus offense shall be sentenced to detention ~~in a jail facility~~ unless
22 an adjudication has been made that the juvenile offender is an habitual
23 status offender;

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

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

33 (h) The court may order that the juvenile offender be examined or
34 treated by a physician, surgeon, psychiatrist or psychologist, or that
35 he receive other special care, or that he submit to an alcohol or drug
36 evaluation, if needed, and for such purposes may place the juvenile of-
37 fender in a hospital or other suitable facility;

38 (i) The court may order that the county probation office authorize a
39 comprehensive substance abuse assessment of the juvenile offender. Af-
40 ter receiving the comprehensive substance abuse assessment, and upon a
41 finding by the court that treatment will provide a cost-effective means
42 of achieving the sentencing goals of accountability, competency devel-
43 opment and community protection, the court may order that the juvenile
44 offender receive immediate treatment for substance abuse in keeping
45 with a plan of treatment approved by the court. The initial cost of the
46 assessment and treatment shall be borne by the department of juvenile
47 corrections with funds allocated to the county probation office. The
48 director of the department of juvenile corrections may promulgate rules
49 consistent with this paragraph to establish a schedule of fees to be

1 charged to parents by the county probation office for such services
2 based upon the cost of the services and the ability of parents to pay;

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

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

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

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

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

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

34 (p) The court shall assess a twenty dollar (\$20.00) detention/proba-
35 tion training academy fee against the juvenile offender for every pe-
36 tition filed where there has been an adjudication that the juvenile of-
37 fender is within the purview of this chapter. All moneys raised pur-
38 suant to this paragraph shall be transmitted by the court for deposit in
39 the juvenile corrections fund which is created in section 20-542, Idaho
40 Code;

41 (q) Additionally, the court shall assess a fee of sixty cents (60¢) per
42 hour of community service against the juvenile offender for every pe-
43 tition filed where there has been an adjudication that the juvenile of-
44 fender is within the purview of this chapter and the court is ordering
45 community service. Such fee is to be remitted by the court to the state
46 insurance fund for purposes of providing worker's compensation insur-
47 ance for persons performing community service pursuant to this chapter.
48 However, if a county is self-insured and provides worker's compensation
49 insurance for persons performing community service pursuant to the pro-

1 visions of this chapter, then remittance to the state insurance fund is
2 not required;

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

16 (s) Notwithstanding any other provision of this section, a court may
17 not commit a juvenile offender under the age of ten (10) years to a pe-
18 riod of detention or to the custody of the department of juvenile cor-
19 rections for placement in secure confinement.

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

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

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

42 (5) Any parent, legal guardian or custodian violating any order of the
43 court entered against the person under the provisions of this chapter shall
44 be subject to contempt proceedings under the provisions of chapter 6, title
45 7, Idaho Code.