

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO)
JUVENILE RULES 4, 14, 27, and 54)

ORDER

The Court has reviewed a recommendation from the Juvenile Justice Advisory Committee (JJAC) to amend the Idaho Juvenile Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Juvenile Rules be amended as follows:

Idaho Juvenile Rule 4. ~~Form of summons (J.C.A.)~~ (Reserved)

~~(a) The summons shall substantially conform to the following format:~~

~~[Click here for form.](#)~~

Idaho Juvenile Rule 14. ~~Order Setting Pretrial Conference, Evidentiary Hearing, or Sentencing Hearing (J.C.A.)~~ (Reserved)

~~Upon effective service of process and appearance at the admit/deny hearing, the following order may be used in scheduling pretrial conferences and evidentiary or sentencing hearings in each jurisdiction:~~

~~[Click here for form.](#)~~

Idaho Juvenile Rule 27. Transfer to Juvenile Court (J.C.A.)

(a) In the court's discretion, a criminal charge or an infraction ~~a misdemeanor~~ citation naming a defendant who was under 18 years of age at the time of the alleged violation, may be transferred to juvenile court and treated under the provisions of the J.C.A., except charges waived for criminal prosecution pursuant to section 20-508, Idaho Code, or criminal charges listed in section 20-509 Idaho Code. The transfer request may be made by the juvenile, the juvenile's attorney, the prosecutor or upon the court's own motion. A party may make the request orally upon the record or in writing. The party making the request shall provide the court, in writing, with the name and address of the juvenile's parent or guardian. Either party may request that the transfer request be set for a hearing. If the court grants the request to transfer the case, the court shall enter a written order transferring the case to the juvenile court.

~~(b) Upon entry of the transfer order, the misdemeanor case shall be closed and a new juvenile case shall be opened. The citation shall be filed in the juvenile case together with any other documents filed in the misdemeanor case. The citation may serve as the petition, or the prosecutor may file a petition charging the same offense as in the citation. The written transfer order shall remain in the misdemeanor case file, and a copy of the transfer order shall be filed in the new juvenile case.~~

(e**b**) The clerk shall set the new juvenile case for an admit/deny hearing on the juvenile court calendar. The clerk shall cause a notice of admit/deny hearing to be mailed by certified mail to the juvenile and the juvenile's parent or guardian. The hearing shall be set not less than 14 days from the mailing of the notice.

~~(d)~~(c) The admit/deny hearing shall be conducted pursuant to I.J.R. 6. All other hearings and proceedings shall be conducted in accordance with the Juvenile Corrections Act and the Idaho Juvenile Rules.

Idaho Juvenile Rule 54. Mental Health Assessments and Plans of Treatment under I.C. § 20-511A.

(a) As used in this rule, 'interested parties' means:

(1) in Juvenile Corrections Act proceedings, the juvenile, the juvenile's parents, guardians and custodians, the juvenile's counsel, the prosecuting attorney, the department of health and welfare, the department of juvenile corrections, county probation and any other agencies or persons designated by the court.

(2) in Child Protective Act proceedings, the child, the child's parents, guardians and custodians, the child's counsel if any, the child's guardian ad litem if any, the attorney general or prosecuting attorney appearing in the case, the department of health and welfare, and any other agencies or persons designated by the court.

(b) When the court has reason to believe that the conditions specified in I.C. § 20-511A(1)(a) and (b) are present, the court may order the department of health and welfare to submit appropriate mental health assessments and a plan of treatment for the court's approval. The order shall set a time for the submission of the mental health assessment and plan of treatment, which time may be extended for good cause. Notice of the order shall be given to all interested parties. The order shall give notice to the parents of the juvenile or child that initial costs of the preparation of the assessment and plan of treatment, and of any additional evaluation and/or recommendations under Idaho Code § 20-511A(3) and subsection (e) of this rule, may be borne by the department of health and welfare, but that, pursuant to I.C. § 20-511A(5), these costs and all costs associated with assessment and treatment shall be the responsibility of the parents according to their ability to pay based upon the sliding fee scale established pursuant to I.C. § 16-2433.

(c) At any time after determining that there is reason to believe that the conditions specified in I.C. § 20-511A(1)(a) and (b) are present, the court may order the convening of 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 I.C. § 16-2404A, the department of juvenile corrections and/or other agencies or persons designated by the court. The screening team shall review the mental health assessment and plan of treatment and any other relevant information and make written recommendations to the court. Any parents or guardians of the juvenile or child who are available shall be included in the screening team and consulted with regard to the plan of treatment. The order shall set a time for the submission of the written recommendations, which time may be extended for good cause. The order shall designate a leading member of the screening team, who shall have the responsibility for scheduling meetings and submitting the written recommendations of the screening team to the court. Notice of the order shall be given to all interested parties.

(d) The court may:

(1) order any agencies that have treated or had custody of the juvenile or child to release any pertinent information or records to the department of health and welfare for the purpose of mental health assessment and preparation of a plan of treatment;

(2) 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 or child to the court and and/or the screening team; and

(3) require the parents or guardians of the juvenile or child, and where appropriate require the juvenile or child, to allow information pertinent to the assessment or treatment of the child to be released to the department of health and welfare, the court and/or the screening team.

(e) 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 specified in I.C. § 20-511A(1)(a) and (b) are present, or to determine an appropriate plan of treatment for the juvenile, 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.

(f) After receiving the mental health assessment and plan of treatment from the department of health and welfare, any written recommendations from the screening team and any additional evaluations or recommendations for treatment, the court may make a determination of whether the conditions specified in I.C. § 20-511A(1)(a) and (b) are present. If the court finds that such conditions are present, the court shall order mental health treatment in accordance with a plan of treatment as approved ~~or modified~~ by the court. However, the court shall first hold a hearing before making such determination or entering such order if:

(1) the court determines that a hearing would be helpful in making such determinations or fashioning the order; or

(2) any interested party objects to the entry of such a determination or order; or

(3) in-patient or residential treatment would be required as part of the plan of treatment, unless the hearing is waived by the juvenile or child and the parents or guardians of the juvenile or child. Notice of the hearing shall be given to all interested parties.

(g) At the hearing, the court shall consider the mental health assessment and plan of treatment submitted by the department of health and welfare, the recommendations of the screening team and any additional evaluation or recommendations for treatment. The parties may present evidence in support of, or opposed to, the information from any of these sources. Each party shall have the right to present any relevant evidence on the issues of:

(1) whether the conditions specified in I.C. § 20-511A(1)(a) and (b) are present; and

(2) what should be included in the plan of treatment, if any, ordered by the court.

(h) At the conclusion of the hearing, the court shall determine whether the conditions specified in I.C. § 20-511A(1)(a) and (b) are present. If the court determines that such conditions are present, the court shall order mental health treatment for the juvenile or child in accordance with the plan of treatment as approved or modified by the court. The court shall not order in-patient or residential treatment unless the court determines by clear and convincing evidence that the conditions specified in I.C. § 20-511A(1)(a) and (b) are present and that such treatment is required.

(i) Where the procedures set forth in I.C. § 20-511A and this rule are initiated in a Juvenile Corrections Act proceeding, any communications made by the juvenile to any person participating in an assessment, evaluation or preparation of a plan of treatment for the juvenile, and made for the purpose of such assessment, evaluation or preparation of a plan of treatment, shall not be used against the juvenile for any purpose in the evidentiary hearing in the Juvenile Corrections Act proceeding.

~~(j) Forms.~~

~~(1) An order for mental health assessment and preparation of a plan of treatment under subsection (b), and for the convening of a screening team under subsection (c), shall be in substantially the following form:~~

~~[Click here \[1\]](#) for form.~~

~~(2) The form for an order for an additional assessment and recommendations under subsection (e) shall be in substantially the following form:~~

~~[Click here \[2\]](#) for form.~~

~~(3) The order for a plan of treatment under subsections (f) and (h) shall be in substantially the following form:~~

~~Click here [3] for form.~~

(j) A review hearing will be held within 120 days of the order approving plan of treatment or more frequently as determined by the court. At the review hearing, the court will review compliance with the approved plan of treatment and any motions concerning the plan. The court may:

(1) order the approved plan of treatment remain in full force and effect;

(2) approve recommended modifications to the plan of treatment, as appropriate;
or

(3) find the department of health and welfare children's mental health program has fulfilled its obligations under the I.C. § 20-511A order approving plan of treatment.

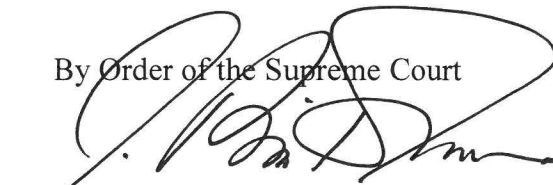
IT IS FURTHER ORDERED that this order and these amendments shall be effective July 1, 2022.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Juvenile Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

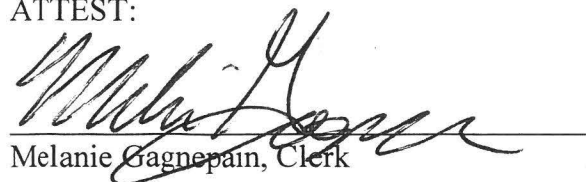
DATED this 15th day of March, 2022.

By Order of the Supreme Court



G. Richard Bevan
Chief Justice, Idaho Supreme Court

ATTEST:


Melanie Gagnepain, Clerk

I, Melanie Gagnepain, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
Certify that the above is a true and correct copy of the
Order entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court 3-15-22
Melanie Gagnepain, Clerk