



# HUMAN RIGHTS *for* KIDS

## Idaho State Ratings Report

Human Rights for Kids (HRFK) annual state ratings process tracks the presence or absence of 12 categories of state statutes that are critical to protecting the human rights of children in the criminal justice system. It is important to note that these 12 categories are not exhaustive of all the important legislation needed to safeguard children's human rights. Furthermore, the ratings do not assess the effectiveness or implementation of these laws in the state. The purpose of the annual state ratings process is to document policies enacted by state legislatures, motivate legislators and policy advocates, and bring attention to the need to prioritize children in criminal justice reform and human rights advocacy. For each category, we track whether a state has a statute consistent with the described policy.

<b>TOTAL POINTS:</b>	3 out of 12
<b>TIER RATING:</b>	4

### 1. Due Process Protections at Point of Entry for Kids

No Credit: 0/1

There are no statutory protections in place requiring children to consult with their parents, legal guardians, or legal counsel prior to waiving their Miranda Rights or being subject to a custodial interrogation for proceedings in either juvenile or adult court.

## **2. Set a Minimum Age of at Least 10 for Juvenile Court**

No Credit: 0/1

Pursuant to §20-502, there is no minimum age for when a child may be adjudicated delinquent in juvenile court.

### **§20-502. DEFINITIONS.**

When used in this chapter, unless the context otherwise requires:

(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.

## **3. Set a Maximum Age of at Least 17 for Juvenile Court**

Full Credit: 1/1

Pursuant to §20-502, the jurisdiction of the juvenile court for delinquent acts extends to anyone under the age of 18.

### **§20-502. DEFINITIONS.**

When used in this chapter, unless the context otherwise requires:

(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.

## **4. Ban Prosecuting Kids Under 14 as Adults AND Require a Child Status Hearings for All Kids 14+ Before Proceedings in Adult Court**

No Credit: 0/1

Pursuant to §20-508, a child less than 14 years of age may be transferred for prosecution in adult criminal court, and pursuant to §20-509 a child 14 to 18 years of age alleged to have committed certain offenses must be prosecuted in adult court.

### **§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.

#### **§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.

## **5. Ban Mandatory Minimum Sentencing for Kids**

No Credit: 0/1

There is no statutory provision allowing judges to depart from any mandatory minimum sentence once a child has been convicted in adult criminal court.

## **6. Ban Felony-Murder Rule for Kids**

No Credit: 0/1

Pursuant to §18-4003, a child may be convicted under the felony murder rule.

### **§18-4003. DEGREES OF MURDER.**

(d) Any murder committed in the perpetration of, or attempt to perpetrate, aggravated battery on a child under twelve (12) years of age, arson, rape, robbery, burglary, kidnapping or mayhem, or an act of terrorism, as defined in section 18-8102, Idaho Code, or the use of a weapon of mass destruction, biological weapon or chemical weapon, is murder of the first degree.

## **7. Ban Life Without Parole Sentences for Kids**

No Credit: 0/1

Pursuant to §18-4004, children can be sentenced to life without parole.

### **18-4004. PUNISHMENT FOR MURDER.**

Subject to the provisions of sections 19-2515 and 19-2515A, Idaho Code, every person guilty of murder of the first degree shall be punished by death or by imprisonment for life, provided that a sentence of death shall not be imposed unless the prosecuting attorney filed written notice of intent to seek the death penalty as required under the provisions of section 18-4004A, Idaho Code, and provided further that whenever the death penalty is not imposed the court shall impose a sentence. If a jury, or the court if a jury is waived, finds a statutory aggravating circumstance beyond a reasonable doubt but finds that the imposition of the death penalty would be unjust, the court shall impose a fixed life sentence. If a jury, or the court if a jury is waived, does not find a statutory aggravating circumstance beyond a reasonable doubt or if the death penalty is not sought, the court shall impose a life sentence with a minimum period of confinement of not less than ten (10) years during which period of confinement the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct, except for meritorious service. Every person guilty of murder of the second degree is punishable by imprisonment not less than ten (10) years and the imprisonment may extend to life.

## **8. Release Safety Valve for Kids Serving Lengthy Prison Sentences**

No Credit: 0/1

There is no statutory provision allowing judges or the parole board to review the sentences of every child convicted in criminal court after a reasonable period of incarceration.

## **9. Ban Solitary Confinement for Kids**

No Credit: 0/1

There are no statutory provisions banning the use of solitary confinement.

## **10. Ban Incarcerating Kids with Adults**

No Credit: 0/1

Pursuant to §20-509, children may be held in adult correctional facilities.

### **§20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS.**

(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.

(a) In determining whether it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults or have sight or sound contact with adult inmates, a court shall consider: (i) The age of the juvenile; (ii) The physical and mental maturity of the juvenile; (iii) The present mental state of the juvenile, including whether the juvenile presents an imminent risk of self-harm; (iv) The nature and circumstances of the alleged offense; (v) The juvenile's history of prior delinquent acts; (vi) The relative ability of the available adult and juvenile detention facilities not only to meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and (vii) Any other relevant factor.

(b) If a court determines pursuant to this subsection that it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults: (i) The court shall hold a hearing not less frequently than once every thirty (30) days to review whether it is still in the interest of justice to permit the juvenile to be so held or have such sight or sound contact; and (ii) The juvenile shall not be held in any jail or lockup for adults or permitted to have sight or sound contact with adult inmates for more than one hundred eighty (180) days unless the court, in writing,

determines there is good cause for an extension or the juvenile expressly waives this limitation.

## **11. Ban Mandatory Post-Release Lifetime Supervision**

No Credit: 1/1

Pursuant to §20-233, formerly incarcerated children may be discharged from parole at the discretion of the commission.

### **§20-233. FINAL DISCHARGE OF PAROLEE — MINIMUM TERM.**

(1) When any paroled prisoner has performed the obligations of his parole for such time as shall satisfy the commission that his final release is not incompatible with his welfare and that of society, the commission may make the final order of discharge and issue to the paroled prisoner a certificate of discharge; but no such order of discharge shall be made in any case within a period of less than one (1) year after the date of release on parole, except that when the period of the maximum sentence provided by law shall expire at an earlier date, then a final order of discharge must be made and a certificate of discharge issued to the paroled prisoner not later than the date of expiration of said maximum sentence.

(2) The board of correction may submit a request to the commission for an order of final discharge from the remaining period of parole for any parolee under the board's supervision at any time during the period of parole. A request for final discharge shall be supported by a statement attested to under oath or signed under penalty of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts upon which the request is based. The commission shall notify the victim of a request for final discharge from parole. Any response to a request for final discharge shall be filed within thirty (30) days of the date of submittal of the request. The commission may, without a hearing, rule upon a request for final discharge based on a review of the case, the request, the statement and any responses to the request, or may schedule a hearing on the request. The commission shall rule on the request for final discharge within ninety (90) days of the date of submittal of the request.

## **12. Voting Rights Restoration**

Full Credit: 1/1

Pursuant to §18-310, formerly incarcerated children can have their voting rights restored after they have been discharged from imprisonment, probation, or parole.

### **§18-310. IMPRISONMENT — EFFECT ON CIVIL RIGHTS AND OFFICES.**

(2) Upon final discharge, a person convicted of any Idaho felony shall be restored the full rights of citizenship, except that for persons convicted of treason or those offenses enumerated in paragraphs (a) through (ii) of this subsection the right to

ship, transport, possess or receive a firearm shall not be restored. As used in this subsection, "final discharge" means satisfactory completion of imprisonment, probation and parole as the case may be.