**R547. Health and Human Services, Juvenile Justice and Youth Services.**

**R547-11. Transfer of a Minor Provisionally Housed in Secure Care to the Department of Corrections.**

**R547-11-1. Authority and Purpose.**

(1) Section 26B-1-202 authorizes the Department of Health and Human Services to adopt administrative rules. Section 80-6-507 directs the Division of Juvenile Justice and Youth Services to adopt procedures by administrative rule for the transfer of a minor provisionally housed in a secure care facility to the physical custody of the Department of Corrections.

(2) This rule provides oversight on the transfer of a minor provisionally housed in a division facility to a Department of Corrections facility. Transfer of physical custody to the Department of Corrections shall occur:

(a) when the minor reaches 25 years of age while in a division facility;

(b) prior to the minor reaching 25 years of age, if the division determines that housing the minor in a secure care facility presents unreasonable risk to others; or

(c) when being housed in a secure care facility is not in the best interest of the minor.

**R547-11-2. Definitions.**

(1) "Division" means the Division of Juvenile Justice and Youth Services.

(2) "Minor" means the same as defined in Section 80-6-501.

(3) "Secure care" means the same as defined in Subsection 80-1-102(72).

**R547-11-3. General Rules.**

(1)(a) The division shall transfer physical custody of a minor who has been provisionally housed in secure care when the minor reaches 25 years of age, unless the minor was released earlier from incarceration by the Board of Pardons and Parole.

(b) The division shall complete the transfer as soon as reasonably possible, but no later than six months after the minor reaches 25 years of age.

(2)(a) The division may transfer physical custody of a minor to the Department of Corrections before the minor reaches 25 years of age if the division determines that continuing to house the minor in a division facility:

(i) presents an unreasonable risk to others in the facility; or

(ii) is not in the best interest of the minor.

(b) In determining that a minor presents an unreasonable risk to others in the facility, the division may consider the minor's history of any:

(i) physical assault of any other resident, staff, or other person at the facility;

(ii) planning, coercing, or leading a physical assault by another resident;

(iii) persistent behavior that is disruptive to rehabilitative efforts within the facility;

(iv) pattern of behaviors that creates danger for another person; or

(v) other factor the division determines is relevant.

(b) In determining whether provisional housing in secure care is not in the best interest of a minor, the division may consider:

(i) whether the division has exhausted all treatment resources available;

(ii) whether the minor has failed to show progress toward reducing risk;

(iii) whether the minor is no longer amenable to treatment within the facility;

(iv) whether the minor would be better served by resources available if transferred out of the division facility;

(v) whether overcrowding creates safety and security concerns for a minor as determined by the division director; or

(vi) any other factor the division determines is relevant.

(3) The division director shall have final decision-making authority pursuant to this rule.

**KEY: juveniles, juvenile corrections, juvenile transportation, minors**

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