

ORDINANCE NO. 97

AN ORDINANCE OF THE COUNTY OF GOODING, IDAHO, ESTABLISHING CONTROL OVER CHILDREN UNDER THE AGE OF EIGHTEEN (18) YEARS WHO HAVE RUN AWAY FROM HOME OR HAVE OTHERWISE ABSCONDED FROM PARENTAL CONTROL; WHO FAIL TO ATTEND SCHOOL AS PRESCRIBED BY COMPULSORY ATTENDANCE REQUIREMENTS OF THE STATE OF IDAHO; ALSO PROVIDING FOR NIGHT TIME CURFEW; PROVIDING FOR HOURS OF DAYTIME CURFEW; PROVIDING A PENALTY FOR VIOLATION; REPEALING ANY ORDINANCE AND ANY OTHER SECTIONS OF ORDINANCES IN CONFLICT WITH SAID ORDINANCE; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Constitution of the State of Idaho empowers Counties to make and enforce all local police regulations as are not in conflict with the general laws; and

WHEREAS, the Board of Commissioners for Gooding County, Idaho desire to establish laws to prevent or curtail minor persons from running away from home, otherwise absconding from parental control, failing to attend school as prescribed by state law, and establishing hours of curfew for people under the age of eighteen (18) years, along with supporting provisions; and,

WHEREAS, the establishment of such laws is to provide order and to promote the safety and welfare of the residents of Gooding County, Idaho.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF GOODING COUNTY, IDAHO:

DEFINITIONS:

For purposes of this ordinance, "parent" shall mean a biological parent, a legal guardian, any other legal custodian, any other adult having lawful care or control of the minor person, or any other adult specifically approved by a "parent" as that term is defined in this definition.

SECTION 1. RUNAWAY OR INCORRIGIBILITY

It shall be unlawful for anyone under the age of eighteen years (minor person), living or found within the County of Gooding, to run away from their parent; or to knowingly be or remain with a minor person who has run away from their parent; or to commit any act or acts which render them to be incorrigible or otherwise place them beyond the control of their parent; provided however that such minor fleeing from abuse or criminal conduct shall not be in violation when such abuse or criminal conduct is reported to law enforcement and/or the Idaho Department of Health and Welfare.

SECTION 2. COMPULSORY SCHOOL ATTENDANCE

- A. SCHOOL ATTENDANCE AND TRUANCY:** It shall be unlawful for any minor person under the age of sixteen (16) years to fail to attend, be absent from, or otherwise be truant from school, or other educational program in which they are engaged, when there is no legitimate and/or lawful reason for such failure to attend, absence, or truancy. If the minor is not enrolled in a school, the minor shall be determined to be a student of the school district in which they would be served, as determined by their geographical location, address and/or school district boundaries.
- B. EXCEPTION:** Any minor person subject to this section shall not be in violation under the following circumstance:
1. The minor person has reached the age (currently 16) after which school attendance is not compulsory.

SECTION 3. CURFEW HOURS, VIOLATIONS, AND EXCEPTIONS

- A. NIGHT TIME CURFEW:** It shall be unlawful for any minor person under the age of eighteen (18) years to loiter, idle, wander, stroll, play, drive, or otherwise be upon the public streets, highways, roads, sidewalks, alleys, parks, playgrounds, or other public grounds, or public places, or buildings, or other property generally open to public use, or vacant lots within the County of Gooding, from 12:00 o'clock midnight to 5:00 o'clock a.m. .
- B. EXCEPTIONS:** A minor person shall not be subject to the curfew hours stated in Section 3. A. set forth above, under the following circumstances:
1. When accompanied by a parent.
 2. When engaged in lawful, gainful employment, or when going to or returning from such employment without any detours or stops, unless such detours or stops are approved in writing by a parent.
 3. When engaged in lawful volunteer work, or when going to or returning from such volunteer work without any detours or stops, unless such detours or stops are approved in writing by a parent.

4. When engaged in the performance of a lawful errand at the written direction of a parent.
5. When, with written permission of a parent, attending an official activity sponsored by a school district, a religious organization, a governmental entity, a civic organization, a youth organization, a recreation district, or other like organizations when such activity is supervised by adults; or when going to or returning from such activity without any detours or stops, unless such detours or stops are approved in writing by a parent.
6. When a justifiable emergency arises; or when immediate action is required to prevent personal injury or loss of life, or when immediate action is required to protect life or property.
7. When the minor person is lawfully married.
8. When the minor person is a member of the military service of the United States of America.
9. When the minor person is exercising any of the rights guaranteed such minor person by the Constitution of the United States and/or the State of Idaho.

SECTION 4. RESPONSIBILITY OF PARENTS, OR OTHER PERSON(S)

It shall be unlawful for the parents or legal guardian of a minor under the age of eighteen (18) years to knowingly permit such minor to be in violation of any section of this ordinance. It shall also be unlawful for any person by any act to knowingly encourage, aid, or otherwise facilitate the violation of any section of this ordinance by any person under the age of eighteen (18) years.

SECTION 5. ENFORCEMENT

No minor person shall be placed into Juvenile Detention, or any other secure facility, solely for a violation of this Ordinance. If a minor person cannot be released to a parent, the Idaho State Department of Health and Welfare shall be contacted, and the minor person released into the care of that agency.

- A. Contacting Parents: If any person detains a minor person for violation of any of the provisions of this ordinance, the detaining person shall immediately contact the parent of such minor person.

- B. Determining Age of the minor person: Any legal form of identification shall be sufficient as proof of age. This shall include, but not be limited to, I.D. issued by schools. The I.D. must contain a statement of age or date of birth.
- C. Copy of Ordinance may be Delivered: Upon release of the minor person to a parent, a copy of this Ordinance may be delivered to the minor person and the parent.
- D. Status Offenders from Foreign Jurisdictions: Status offenders from foreign jurisdictions may be placed in juvenile detention when there is a specific detention request from the foreign jurisdiction which complies with the .

SECTION 6. PENALTIES AND TREATMENT

- A. Status Offense: Any juvenile who violates any provision of this Ordinance shall be guilty of a status offense punishable by the provisions of, and according to, Title 20, Chapter 5 of the Juvenile Corrections Act.
- B. Violations by Parent: Any parent who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor.
- C. Misdemeanor: Upon a first offense of any of the provisions of this Ordinance by the minor or parent, the prosecuting attorney may request a preliminary inquiry from the Department of Juvenile Probation for screening and assessment according to the Department of Juvenile Probation's designated and authorized procedures.
- D. Repeat Offender: Any child who has been adjudicated for commission of two (2) status offenses within twelve (12) months may be charged, petitioned, and adjudicated pursuant to Idaho law as an habitual status offender for the third status offense committed within that twelve (12) month period.

SECTION 7. REPEAL OF CONFLICTING ORDINANCES, OR PARTS THEREOF, AND SEVERABILITY

Ordinance Number 84, and any parts or provisions of any other ordinance conflicting with this ordinance, are hereby repealed. If any section, paragraph, clause, or provision of this ordinance shall be held invalid or unenforceable for

any reason, the invalidity, or inability to enforce such section, paragraph, clause or provision shall not affect, or render unenforceable any remaining sections, paragraphs, clauses or provisions of this ordinance.

SECTION 8. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication.

APPROVED AND ADOPTED this 25 day of August, 2008.

5

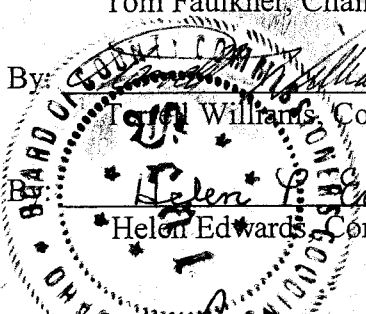
BOARD OF COUNTY COMMISSIONERS FOR GOODING COUNTY, IDAHO.

By: [Signature]
Tom Faulkner, Chair

By: [Signature]
Tom Williams, Commissioner

By: [Signature]
Helen Edwards, Commissioner

ATTEST [Signature]
Denise Gill, Clerk



COPY OR PRINT