

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 26

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO CHILDREN'S MENTAL HEALTH SERVICES; AMENDING SECTION 16-2428,
IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN DISCLOSURES; AND
DECLARING AN EMERGENCY.

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

SECTION 1. That Section 16-2428, Idaho Code, be, and the same is hereby
amended to read as follows:

16-2428. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION. (1) All
certificates, applications, records, and reports directly or indirectly
identifying a patient or former patient or an individual whose involuntary
treatment has been sought under this chapter shall be kept confidential and
shall not be disclosed by any person except with the consent of the person
identified or his legal guardian, if any, or as disclosure may be necessary
to carry out any of the provisions of this chapter, or as a court may direct
upon its determination that disclosure is necessary and that failure to make
such disclosure would be contrary to public interest.

~~(1)~~ (2) No person in possession of confidential statements made by a
child over the age of fourteen (14) years in the course of treatment may dis-
close such information to the child's parent or others without the written
permission of the child, unless such disclosure is necessary to:

(a) Necessary:

(i) For a parent or guardian to obtain medicaid or insurance cov-
erage, to;

(ii) For a parent or guardian to contest or appeal denial of medic-
aid or insurance coverage;

(iii) To carry out the treatment plan, including accessing ser-
vices and supports; or to prevent

(iv) To prevent harm to the child or others, ~~or unless authorized~~
to disclose such information; or

(b) Authorized by order of a court.

~~(2)~~ (3) The child has the right of access to information regarding
his treatment and has the right to have copies of information and to submit
clarifying or correcting statements and other documentation of reasonable
length for inclusion with his treatment record.

~~(3)~~ (4) Nothing in this section shall prohibit the denial of access to
records by a child when a physician or other mental health professional be-
lieves and notes in the child's medical records that the disclosure would be
damaging to the child. In any case, the child has the right to petition the
court for an order granting access.

~~(4)~~ (5) Access to records by the state protection and advocacy system
shall be governed by 42 U.S.C. 10801 et seq., as amended.

1 SECTION 2. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.