

IN THE SENATE

SENATE BILL NO. 1341

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1601, IDAHO CODE,  
2 TO REVISE PROVISIONS REGARDING POLICY; AMENDING SECTION 16-1605, IDAHO  
3 CODE, TO PROVIDE THAT THE DEPARTMENT SHALL INVESTIGATE IN CERTAIN IN-  
4 STANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1619,  
5 IDAHO CODE, TO PROVIDE PROCEDURES FOR JUDICIAL REVIEW IN CERTAIN IN-  
6 STANCES, TO PROVIDE THAT THE COURT SHALL CONSIDER CERTAIN FACTORS AND  
7 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1622, IDAHO CODE,  
8 TO REVISE A PROVISION REGARDING PERMANENCY PLANS AND TO MAKE TECHNICAL  
9 CORRECTIONS; AMENDING SECTION 16-1629, IDAHO CODE, TO PROVIDE THAT THE  
10 COURT SHALL HAVE WRITTEN NOTICE WHEN THERE IS A CHANGE IN FOSTER CARE  
11 PLACEMENT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 16,  
12 TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1647, IDAHO  
13 CODE, TO ESTABLISH CITIZEN REVIEW PANELS AND A CHILD PROTECTION LEG-  
14 ISLATIVE REVIEW PANEL, TO PROVIDE FOR COMPOSITION OF THE PANELS, TO PRO-  
15 VIDE FOR APPLICATION AND ELIGIBILITY, TO PROVIDE FOR DUTIES OF THE PAN-  
16 ELS, TO PROVIDE THAT PANELS SHALL HAVE ACCESS TO CERTAIN INFORMATION, TO  
17 PROVIDE REPORTING REQUIREMENTS AND TO PROVIDE MEETING REQUIREMENTS.  
18

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

20 SECTION 1. That Section 16-1601, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 16-1601. POLICY. The policy of the state of Idaho is hereby declared  
23 to be the establishment of a legal framework conducive to the judicial pro-  
24 cessing, including periodic review of child abuse, abandonment and neglect  
25 cases, and the protection of any child whose life, health or welfare is  
26 endangered. At all times, the health and safety of the child shall be the  
27 primary concern. Each child coming within the purview of this chapter shall  
28 receive, preferably in his own home, the care, guidance and control that  
29 will promote his welfare and the best interest of the state of Idaho, and if  
30 he is removed from the control of one (1) or more of his parents, guardian  
31 or other custodian, the state shall secure adequate care for him; provided,  
32 however, that the state of Idaho shall, to the fullest extent possible, seek  
33 to preserve, protect, enhance and reunite the family relationship. Nothing  
34 in this chapter shall be construed to allow discrimination on the basis of  
35 disability. This chapter seeks to coordinate efforts by state and local  
36 public agencies, in cooperation with private agencies and organizations,  
37 citizens' groups, and concerned individuals, to:

- 38 (1) Preserve the privacy and unity of the family whenever possible;
- 39 (2) Take such actions as may be necessary and feasible to prevent the  
40 abuse, neglect, abandonment or homelessness of children;
- 41 (3) Take such actions as may be necessary to provide the child with per-  
42 manency including concurrent planning;

1 (4) Clarify for the purposes of this act the rights and responsibil-  
 2 ities of parents with joint legal or joint physical custody of children at  
 3 risk; and

4 (5) Maintain sibling bonds by placing siblings in the same home when  
 5 possible, and support or facilitate sibling visitation when not, unless such  
 6 contact is not in the best interest of one (1) or more of the children.

7 SECTION 2. That Section 16-1605, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9 16-1605. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT. (1) Any physi-  
 10 cian, resident on a hospital staff, intern, nurse, coroner, school teacher,  
 11 day care personnel, social worker, or other person having reason to believe  
 12 that a child under the age of eighteen (18) years has been abused, abandoned  
 13 or neglected or who observes the child being subjected to conditions or cir-  
 14 cumstances ~~which that~~ would reasonably result in abuse, abandonment or ne-  
 15 glect shall report or cause to be reported within twenty-four (24) hours such  
 16 conditions or circumstances to the proper law enforcement agency or the de-  
 17 partment. The department shall be informed by law enforcement of any re-  
 18 port made directly to it. If the department knows or has reason to know that  
 19 an adult in the home has been convicted of lewd and lascivious conduct or  
 20 felony injury to a child in the past or that the child has been removed from  
 21 the home for circumstances that resulted in a conviction for lewd and lasciv-  
 22 ious conduct or felony injury to a child, then the department shall investi-  
 23 gate. When the attendance of a physician, resident, intern, nurse, day care  
 24 worker, or social worker is pursuant to the performance of services as a mem-  
 25 ber of the staff of a hospital or similar institution, he shall notify the  
 26 person in charge of the institution or his designated delegate who shall make  
 27 the necessary reports.

28 (2) For purposes of subsection (3) of this section, the term "duly  
 29 ordained minister of religion" means a person who has been ordained or set  
 30 apart, in accordance with the ceremonial, ritual or discipline of a church  
 31 or religious organization which has been established on the basis of a  
 32 community of religious faith, belief, doctrines and practices, to hear con-  
 33 fessions and confidential communications in accordance with the bona fide  
 34 doctrines or discipline of that church or religious organization.

35 (3) The notification requirements of subsection (1) of this section do  
 36 not apply to a duly ordained minister of religion, with regard to any confes-  
 37 sion or confidential communication made to him in his ecclesiastical capac-  
 38 ity in the course of discipline enjoined by the church to which he belongs if:

39 (a) The church qualifies as tax-exempt under 26 U.S.C. ~~section~~  
 40 501(c) (3);

41 (b) The confession or confidential communication was made directly to  
 42 the duly ordained minister of religion; and

43 (c) The confession or confidential communication was made in the man-  
 44 ner and context ~~which that~~ places the duly ordained minister of reli-  
 45 gion specifically and strictly under a level of confidentiality that is  
 46 considered inviolate by canon law or church doctrine. A confession or  
 47 confidential communication made under any other circumstances does not  
 48 fall under this exemption.

1 (4) Failure to report as required in this section shall be a misde-  
2 meanor.

3 SECTION 3. That Section 16-1619, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDA-  
6 TION. (1) When a petition has been filed, the court shall set an adjudicatory  
7 hearing to be held no later than thirty (30) days after the filing of the  
8 petition.

9 (2) A pretrial conference shall be held outside the presence of the  
10 court within three (3) to five (5) days before the adjudicatory hearing.  
11 Investigative reports required under section 16-1616, Idaho Code, shall be  
12 delivered to the court with copies to each of the parents and other legal cus-  
13 todians, guardian ad litem and attorney for the child prior to the pretrial  
14 conference.

15 (3) At the adjudicatory hearing, parents or guardians with disabil-  
16 ities shall have the right to introduce admissible evidence regarding how  
17 use of adaptive equipment or supportive services may enable the parent or  
18 guardian to carry out the responsibilities of parenting the child by ad-  
19 dressing the reason for the removal of the child.

20 (4) If a preponderance of the evidence at the adjudicatory hearing  
21 shows that the child comes within the court's jurisdiction under this chap-  
22 ter upon the grounds set forth in section 16-1603, Idaho Code, the court  
23 shall so decree and in its decree shall make a finding on the record of the  
24 facts and conclusions of law upon which it exercises jurisdiction over the  
25 child.

26 (5) Upon entering its decree, the court shall consider any information  
27 relevant to the disposition of the child but in any event shall:

28 (a) Place the child under the protective supervision of the department  
29 for an indeterminate period not to exceed the child's eighteenth birth-  
30 day; or

31 (b) Vest legal custody in the department or other authorized agency  
32 subject to residual parental rights and subject to full judicial review  
33 by the court and, when contested by any party, judicial approval of all  
34 matters relating to the custody of the child by the department or other  
35 authorized agency.

36 (6) If the court vests legal custody in the department or other autho-  
37 rized agency, the court shall make detailed written findings based on facts  
38 in the record, that, in addition to the findings required in subsection (4)  
39 of this section, continuation of residence in the home would be contrary to  
40 the welfare of the child and that vesting legal custody with the department  
41 or other authorized agency would be in the best interests of the child. In  
42 addition, the court shall make detailed written findings based on facts in  
43 the record as to whether the department made reasonable efforts to prevent  
44 the placement of the child in foster care, including findings, when appro-  
45 priate, that:

46 (a) Reasonable efforts were made but were not successful in eliminating  
47 the need for foster care placement of the child;

48 (b) The department made reasonable efforts to prevent removal but was  
49 not able to safely provide preventive services;

1 (c) Reasonable efforts to temporarily place the child with related per-  
2 sons were made but were not successful; or

3 (d) Reasonable efforts to reunify the child with one (1) or both parents  
4 were not required because aggravated circumstances were present. If  
5 aggravated circumstances are found, a permanency hearing for the child  
6 shall be held within thirty (30) days of the determination of aggravated  
7 circumstances.

8 (7) (a) The court shall also inquire regarding:

9 (i) Whether there is reason to believe that the child is an Indian  
10 child;

11 (ii) The efforts that have been made since the last hearing to de-  
12 termine whether the child is an Indian child; and

13 (iii) The department's efforts to work with all tribes of which the  
14 child may be a member to verify whether the child is a member or el-  
15 igible for membership.

16 (b) In addition, if the court vests legal custody of the child in the  
17 department or other authorized agency, the court shall inquire as to:

18 (i) If the child is of school age, the department's efforts to  
19 keep the child in the school at which the child is currently en-  
20 rolled; and

21 (ii) If a sibling group was removed from ~~their~~ the home, the de-  
22 partment's efforts to place the siblings together, or if the de-  
23 partment has not placed or will not be placing the siblings to-  
24 gether, about a plan to ensure frequent visitation or ongoing in-  
25 teraction among the siblings, unless visitation or ongoing inter-  
26 action would be contrary to the safety or well-being of one (1) or  
27 more of the siblings.

28 (c) If the court vests legal custody of the child in the department  
29 or other authorized agency and the child is being treated with psy-  
30 chotropic medication, these additional requirements shall apply:

31 (i) The department shall report to the court the medications and  
32 dosages prescribed for the child and the medical professional who  
33 prescribed the medication; and

34 (ii) The court shall inquire ~~as to,~~ about and may make any addi-  
35 tional inquiry relevant to ~~the~~ use of psychotropic medications.

36 (8) A decree vesting legal custody in the department shall be binding  
37 upon the department and may continue until the child's eighteenth birthday.

38 (9) A decree vesting legal custody in an authorized agency other than  
39 the department shall be for a period of time not to exceed the child's eigh-  
40 teenth birthday, and on such other terms as the court shall state in its de-  
41 cree to be in the best interests of the child and which the court finds to be  
42 acceptable to such authorized agency.

43 (10) In order to preserve the unity of the family system and to ensure  
44 the best interests of the child, whether issuing an order of protective su-  
45 pervision or an order of legal custody, the court may consider extending or  
46 initiating a protective order as part of the decree. The protective order  
47 shall be determined as in the best interests of the child and upon a showing  
48 of continuing danger to the child. The conditions and terms of the protec-  
49 tive order shall be clearly stated in the decree.

1 (11) If the court does not find that the child comes within the juris-  
 2 diction of this chapter pursuant to subsection (4) of this section, it shall  
 3 dismiss the petition.

4 (12) Where legal custody of a child is vested in the department, any  
 5 party or counsel for a child may, at or after the disposition phase of an ad-  
 6 judicatory hearing, file and serve a written motion to contest matters re-  
 7 lating to the placement of the child by the department. The hearing must  
 8 be held no later than thirty (30) days from the date the motion was filed.  
 9 If the court approves the placement, the court shall enter an order denying  
 10 the motion. If the court does not approve the placement, the court shall en-  
 11 ter an order directing the department to identify and implement an alterna-  
 12 tive placement in accordance with applicable law. The court shall consider  
 13 everything necessary or proper in the best interests of the children. The  
 14 court shall consider all relevant factors, which may include:

15 (a) The wishes of the child regarding the child's custodian;

16 (b) The wishes of the child's parent or parents regarding the child's  
 17 custody, if appropriate;

18 (c) The interaction and interrelationship of the child with his parent  
 19 or parents or foster parent or foster parents, and the child's siblings;

20 (d) The child's adjustment to his home, school and community;

21 (e) The character and circumstances of all individuals involved;

22 (f) The need to promote continuity and stability in the life of the  
 23 child; and

24 (g) A history of domestic violence as defined in section 39-6303, Idaho  
 25 Code, whether or not in the presence of the child, or a conviction for  
 26 lewd and lascivious conduct or felony injury to a child.

27 SECTION 4. That Section 16-1622, Idaho Code, be, and the same is hereby  
 28 amended to read as follows:

29 16-1622. REVIEW HEARINGS -- STATUS HEARINGS -- ANNUAL PERMANENCY  
 30 HEARINGS. (1) Review hearing.

31 (a) A hearing for review of the child's case and permanency plan shall  
 32 be held no later than six (6) months after entry of the court's order  
 33 taking jurisdiction under this act and every six (6) months thereafter.  
 34 The department and the guardian ad litem shall file reports to the court  
 35 no later than five (5) days prior to the six (6) month review hearing.  
 36 The purpose of the review hearing is:

37 (i) To determine:

38 1. The safety of the child;

39 2. The continuing necessity for and appropriateness of the  
 40 placement;

41 3. The extent of compliance with the case plan; and

42 4. The extent of progress that has been made toward alle-  
 43 viating or mitigating the causes necessitating placement in  
 44 foster care;

45 (ii) To determine or continue to investigate whether the child is  
 46 an Indian child. If there is reason to believe that the child is an  
 47 Indian child and there has not been a final determination regard-  
 48 ing the child's status as an Indian child:

1           1. The department shall document and the court shall inquire  
2           about the efforts that have been made since the last hearing  
3           to determine whether the child is an Indian child; and

4           2. The department shall document and the court shall de-  
5           termine that the department is using active efforts to work  
6           with all tribes of which the child may be a member to verify  
7           whether the child is a member or eligible for membership;

8           (iii) To inquire regarding the child's educational stability. The  
9           department shall document and the court shall inquire as to the ef-  
10          forts made to ensure educational stability for the child, includ-  
11          ing the efforts made to keep the child in the school in which the  
12          child is enrolled at the time of placement or the reason that re-  
13          maining in the school is not in the child's best interests;

14          (iv) To inquire regarding sibling placement. The department  
15          shall document and the court shall inquire whether siblings were  
16          placed together, or if siblings were not placed together, the  
17          efforts made to place siblings together, the reasons why sib-  
18          lings were not placed together, and a plan for ensuring frequent  
19          visitation or ongoing interaction between the siblings, unless  
20          visitation or ongoing interaction would be contrary to the safety  
21          or well-being of one (1) or more of the siblings;

22          (v) To inquire regarding permanency. The court shall ask each  
23          youth age twelve (12) years and older about his desired permanency  
24          outcome and discuss with the youth his current permanency plan.  
25          For a youth age fourteen (14) years and older, the hearing shall  
26          include a review of the services needed to assist the youth to make  
27          the transition from foster care to successful adulthood;

28          (vi) To document efforts related to the reasonable and prudent  
29          parent standard. For a youth whose permanency goal is another  
30          planned permanent living arrangement, the department shall docu-  
31          ment:

32               1. That the youth's foster parents or child care institution  
33               is following the reasonable and prudent parent standard when  
34               deciding whether the child may participate in extracurricu-  
35               lar, enrichment, cultural and social activities; and

36               2. The regular, ongoing opportunities to engage in age or  
37               developmentally appropriate activities that have been pro-  
38               vided to the youth;

39          (vii) To document efforts made to find a permanent placement other  
40          than another planned permanent living arrangement. For a youth  
41          whose permanency goal is another planned permanent living ar-  
42          rangement, the department shall document:

43               1. The intensive, ongoing, and as of the date of the hearing,  
44               unsuccessful efforts made to place the youth with a parent,  
45               in an adoptive placement, in a guardianship, or in the legal  
46               custody of the department in a placement with a fit and will-  
47               ing relative, including an adult sibling; and

48               2. Why another planned permanent living arrangement is the  
49               best permanency plan for the youth and a compelling reason  
50               why, as of the date of the review hearing, it would not be in

1           the best interest of the child to be placed permanently with  
2           a parent, in an adoptive placement, in a guardianship, or in  
3           the legal custody of the department in a placement with a fit  
4           and willing relative, including an adult sibling;

5           (viii) To make findings regarding a permanency goal of another  
6           planned permanent living arrangement. For youth whose permanency  
7           goal is another planned permanent living arrangement, the court  
8           shall make written, case-specific findings, as of the date of the  
9           hearing, that:

10           1. Another planned permanent living arrangement is the best  
11           permanency goal for the youth; and

12           2. There are compelling reasons why it is not in the best in-  
13           terest of the youth to be placed permanently with a parent,  
14           in an adoptive placement, in a guardianship, or in the legal  
15           custody of the department in a placement with a fit and will-  
16           ing relative, including an adult sibling;

17           (ix) To document and inquire regarding psychotropic medication.  
18           At each review hearing, if the child is being treated with psy-  
19           chotropic medication, these additional requirements shall apply:

20           1. The department shall report to the court the medication  
21           and dosage prescribed for the child, and the medical profes-  
22           sional who prescribed the medication; and

23           2. The court shall inquire as to, and may make any additional  
24           inquiry relevant to, the use of psychotropic medication; and

25           (x) To project, when reasonable, a likely date by which the child  
26           may be safely returned to and maintained in the home or placed in  
27           another permanent placement.

28           (b) A status hearing is a review hearing that does not address all or  
29           most of the purposes identified in paragraph (a) of this subsection and  
30           may be held at the discretion of the court. Neither the department nor  
31           the guardian ad litem is required to file a report with the court prior  
32           to a status hearing, unless ordered otherwise by the court.

33           (c) A motion for revocation or modification of an order issued un-  
34           der section 16-1619, Idaho Code, may be filed by the department or any  
35           party; provided that no motion may be filed by the respondents under  
36           this section within three (3) months of a prior hearing on care and  
37           placement of the child. Notice of a motion for review of a child's case  
38           shall be provided to the parents and other legal guardians, the prose-  
39           cuting attorney or deputy attorney general, guardian ad litem, attorney  
40           for the child, the department and foster parents.

41           (d) If the motion filed under paragraph (c) of this subsection alleges  
42           that the child's best interests are no longer served by carrying out the  
43           order issued under section 16-1619, Idaho Code, or that the department  
44           or other authorized agency has failed to provide adequate care for the  
45           child, the court shall hold a hearing on the motion.

46           (e) The department or authorized agency may move the court at any time  
47           to vacate any order placing a child in its custody or under its protec-  
48           tive supervision.

49           (2) Permanency plan and hearing.

1 (a) The permanency plan shall include a permanency goal. The per-  
2 manency goal may be one (1) of the following: continued efforts at  
3 reunification, in the absence of a judicial determination of aggra-  
4 vated circumstances; or termination of parental rights and adoption,  
5 guardianship or, for youth age sixteen (16) years and older only, an-  
6 other planned permanent living arrangement. Every permanency plan  
7 shall include the information set forth in section 16-1621(3) (a), Idaho  
8 Code. If the permanency plan has reunification as a permanency goal,  
9 the plan shall include information set forth in section 16-1621(3) (c),  
10 Idaho Code; however, if the circumstances that caused the child to be  
11 placed into protective custody resulted in a conviction for lewd and  
12 lascivious conduct or felony injury to a child, if the child has been  
13 in protective custody for more than six (6) months, or if a high risk  
14 of repeat maltreatment or reentry into foster care exists due to a  
15 parent's recent completion of substance abuse treatment or other com-  
16 PELLING circumstances, then the permanency plan shall include a period  
17 of protective supervision or trial home visit period of no less than  
18 ninety (90) days prior to the court vacating the case. During the pro-  
19 TECTIVE supervision or trial home visit period, the department shall  
20 make regular home visits. During the protective supervision or trial  
21 home visit period, the court shall hold one (1) or more review hearings  
22 for each permanency plan where a period of protective supervision or  
23 a trial home visit has been imposed and may require participation in  
24 supportive services including community home visiting and peer-to-peer  
25 mentoring. Families reunified following a period of protective super-  
26 VISION or a trial home visit should be encouraged by the department or  
27 the court to continue to participate in supportive services when ben-  
28 EFICIAL and appropriate. If the permanency plan has a permanency goal  
29 other than reunification, the plan shall include the information set  
30 forth in section 16-1621(3) (d), Idaho Code, and, if the permanency goal  
31 is termination of parental rights and adoption, then in addition to the  
32 information set forth in section 16-1620(3), Idaho Code, the permanency  
33 plan shall also name the proposed adoptive parents when known. If the  
34 adoptive parents are not known at the time the permanency plan is pre-  
35 pared, then the department shall amend the plan to name the proposed  
36 adoptive parents as soon as such person or persons become known. The  
37 court may approve a permanency plan ~~which~~ that includes a primary goal  
38 and a concurrent goal. As used in this paragraph, "trial home visit"  
39 means that a child is returned to the care of the parent or guardian from  
40 whom the child was removed with the department continuing to have legal  
41 custody of the child.

42 (b) A permanency hearing shall be held no later than twelve (12) months  
43 from the date the child is removed from the home or the date of the  
44 court's order taking jurisdiction under this chapter, whichever occurs  
45 first, and at least every twelve (12) months thereafter, so long as the  
46 court has jurisdiction over the child. The court shall approve, reject  
47 or modify the permanency plan of the department and review progress in  
48 accomplishing the permanency goal. A permanency hearing may be held  
49 at any time and may be combined with the review hearing required under  
50 subsection (1) of this section.



1 (c) The court shall make written, case-specific findings whether the  
2 department made reasonable efforts to finalize the primary permanency  
3 goal in effect for the child. Lack of reasonable efforts to reunify may  
4 be a basis for an order approving a permanency plan with a permanency  
5 goal of reunification.

6 (d) Where the permanency goal is not reunification, the hearing shall  
7 include a review of the department's consideration of options for  
8 in-state and out-of-state placement of the child. In the case of a  
9 child in an out-of-state placement, the court shall determine whether  
10 the out-of-state placement continues to be appropriate and in the best  
11 interest of the child.

12 (e) The court shall ask each youth age twelve (12) years and older about  
13 his desired permanency outcome and discuss with the youth his current  
14 permanency plan. In the case of a child who has attained the age of four-  
15 teen (14) years and older, the hearing shall include a determination of  
16 the services needed to assist the youth to make the transition from fos-  
17 ter care to successful adulthood.

18 (f) The court may approve a primary permanency goal of another planned  
19 permanent living arrangement only for youth age sixteen (16) years or  
20 older and only upon written, case-specific findings that, as of the date  
21 of the hearing:

22 (i) Another planned permanent living arrangement is the best per-  
23 manency goal for the youth; and

24 (ii) There are compelling reasons why it is not in the best inter-  
25 est of the youth to be placed permanently with a parent, in an adop-  
26 tive placement, in a guardianship or in the legal custody of the  
27 department in a placement with a fit and willing relative, includ-  
28 ing an adult sibling.

29 (g) If the child has been in the temporary or legal custody of the de-  
30 partment for fifteen (15) of the most recent twenty-two (22) months, the  
31 department shall file, prior to the last day of the fifteenth month, a  
32 petition to terminate parental rights, unless the court finds that:

33 (i) The child is placed permanently with a relative;

34 (ii) There are compelling reasons why termination of parental  
35 rights is not in the best interests of the child; or

36 (iii) The department has failed to provide reasonable efforts to  
37 reunify the child with his family.

38 (h) The department shall document and the court shall inquire:

39 (i) As to the efforts made to ensure educational stability for the  
40 child, including the efforts made to keep the child in the school  
41 in which the child is enrolled at the time of placement or that re-  
42 maining in the school is not in the child's best interests; and

43 (ii) That siblings were placed together, or, if siblings were not  
44 placed together, the efforts made to place siblings together, the  
45 reasons why siblings were not placed together or why a joint place-  
46 ment would be contrary to the safety or well-being of one (1) or  
47 more of the siblings, and a plan for ensuring frequent visitation  
48 or ongoing interaction among siblings, unless visitation or ongo-  
49 ing interaction would be contrary to the safety or well-being of  
50 one (1) or more of the siblings.

1 (i) If there is reason to believe that the child is an Indian child and  
2 there has not been a final determination regarding the child's status as  
3 an Indian child, the department shall document and the court shall:

4 (i) Inquire about the efforts that have been made since the last  
5 hearing to determine whether the child is an Indian child; and

6 (ii) Determine that the department has made active efforts to work  
7 with all tribes of which the child may be a member to verify whether  
8 the child is a member or eligible for membership.

9 (j) At each permanency hearing, if the child is being treated with psy-  
10 chotropic medication, these additional requirements shall apply:

11 (i) The department shall report to the court the medication and  
12 dosage prescribed for the child, and the medical professional who  
13 prescribed the medication; and

14 (ii) The court shall inquire as to, and may make any additional  
15 inquiry relevant to, the use of psychotropic medication.

16 (k) The court may authorize the department to suspend further efforts  
17 to reunify the child with the child's parent, pending further order of  
18 the court, when a permanency plan is approved by the court and the perma-  
19 nency plan does not include a permanency goal of reunification.

20 (3) If a youth is in the legal custody of the department or other autho-  
21 rized agency and is within ninety (90) days of his eighteenth birthday, the  
22 department shall file a report with the court that includes the department's  
23 transition plan for the youth. The court shall have a review or permanency  
24 hearing at which the court shall:

25 (a) Discuss with the youth his or her transition plan; and

26 (b) Review the transition plan with the youth for purposes of ensur-  
27 ing that the plan provides the services necessary to allow the youth to  
28 transition to a successful adulthood.

29 SECTION 5. That Section 16-1629, Idaho Code, be, and the same is hereby  
30 amended to read as follows:

31 16-1629. POWERS AND DUTIES OF THE DEPARTMENT. The department, working  
32 in conjunction with the court and other public and private agencies and per-  
33 sons, shall have the primary responsibility to implement the purpose of this  
34 chapter. To this end, the department is empowered and shall have the duty to  
35 do all things reasonably necessary to carry out the purpose of this chapter,  
36 including, but not limited to, the following:

37 (1) The department shall administer treatment programs for the protec-  
38 tion and care of neglected, abused and abandoned children, and in so doing  
39 may place in foster care, shelter care, or other diagnostic, treatment, or  
40 care centers or facilities, children of whom it has been given custody. The  
41 department is to be governed by the standards found in chapter 12, title 39,  
42 Idaho Code.

43 (2) On December 1, the department shall make an annual statistical  
44 report to the governor covering the preceding fiscal year showing the num-  
45 ber and status of persons in its custody and including such other data as  
46 will provide sufficient facts for sound planning in the conservation of  
47 children and youth. All officials and employees of the state and of every  
48 county and city shall furnish the department, upon request, such information  
49 within their knowledge and control as the department deems necessary. Lo-

1 cal agencies shall report in such uniform format as may be required by the  
2 department.

3 (3) The department shall be required to maintain a central registry for  
4 the reporting of child neglect, abuse and abandonment information. Provided  
5 however, that the department shall not retain any information for this pur-  
6 pose relating to a child, or parent of a child, abandoned pursuant to chapter  
7 82, title 39, Idaho Code.

8 (4) The department shall make periodic evaluation of all persons in its  
9 custody or under its protective supervision for the purpose of determining  
10 whether existing orders and dispositions in individual cases shall be modi-  
11 fied or continued in force. Evaluations may be made as frequently as the de-  
12 partment considers desirable and shall be made with respect to every person  
13 at intervals not exceeding six (6) months. Reports of evaluation made pur-  
14 suant to this section shall be filed with the court that has jurisdiction.  
15 Reports of evaluation shall be provided to persons having full or partial le-  
16 gal or physical custody of a child. Failure of the department to evaluate a  
17 person or to reevaluate him within six (6) months of a previous examination  
18 shall not of itself entitle the person to a change in disposition but shall  
19 entitle him, his parent, guardian or custodian or his counsel to petition the  
20 court pursuant to section 16-1622, Idaho Code.

21 (5) In a consultive capacity, the department shall assist communities  
22 in the development of constructive programs for the protection, prevention  
23 and care of children and youth.

24 (6) The department shall keep written records of investigations, eval-  
25 uations, prognoses and all orders concerning disposition or treatment of ev-  
26 ery person over whom it has legal custody or under its protective supervi-  
27 sion. Department records shall be subject to disclosure according to chap-  
28 ter 1, title 74, Idaho Code, unless otherwise ordered by the court, the per-  
29 son consents to the disclosure, or disclosure is necessary for the delivery  
30 of services to the person. Notwithstanding the provisions restricting dis-  
31 closure or the exemptions from disclosure provided in chapter 1, title 74,  
32 Idaho Code, all records pertaining to investigations, the rehabilitation of  
33 youth, the protection of children, evaluation, treatment and/or disposi-  
34 tion records pertaining to the statutory responsibilities of the department  
35 shall be disclosed to any duly elected state official carrying out his offi-  
36 cial functions.

37 (7) The department shall establish appropriate administrative proce-  
38 dures for the processing of complaints of child neglect, abuse and abandon-  
39 ment received and for the implementation of the protection, treatment and  
40 care of children formally or informally placed in the custody of the depart-  
41 ment or under its protective supervision under this chapter including, but  
42 not limited to:

43 (a) Department employees whose job duties are related to the child pro-  
44 tective services system under this chapter shall first be trained as to  
45 their obligations under this chapter regarding the protection of chil-  
46 dren whose health and safety may be endangered. The curriculum shall  
47 include information regarding their legal duties, how to conduct their  
48 work in conformity with the requirements of this chapter, information  
49 regarding applicable federal and state laws with regard to the rights  
50 of the child, parent and others who may be under investigation under the

1 child protective services system, and the applicable legal and consti-  
2 tutional parameters within which they are to conduct their work.

3 (b) Department employees whose job duties are related to the child pro-  
4 tective services system shall advise the individual of the complaints  
5 or allegations made against the individual at the time of the initial  
6 contact, consistent with protecting the identity of the referent.

7 (8) The department, having been granted legal custody of a child,  
8 shall have the right to determine where and with whom the child shall live,  
9 provided that the child shall not be placed outside the state without the  
10 court's consent. The court shall retain jurisdiction over the child, which  
11 jurisdiction shall be entered on any order or petition granting legal cus-  
12 tody to the department, and the court shall have jurisdiction over all  
13 matters relating to the child. The department shall not place the child in  
14 the home from which the court ordered the child removed without first ob-  
15 taining the approval of the court. Notwithstanding the provisions of this  
16 subsection, all other determinations relating to where and with whom the  
17 child shall live shall be subject to judicial review by the court and, when  
18 contested by any party, judicial approval.

19 (9) The department shall give to the court any information concerning  
20 the child that the court may at any time require, but in any event shall re-  
21 port the progress of the child under its custody or under its protective su-  
22 pervision at intervals of not to exceed six (6) months. The department shall  
23 file with the court at least five (5) days prior to the permanency hearing ei-  
24 ther under section 16-1622, Idaho Code, or, in the case of a finding of aggra-  
25 vated circumstances, section 16-1620, Idaho Code, the permanency plan and  
26 recommendations of the department.

27 (10) The department shall establish appropriate administrative proce-  
28 dures for the conduct of administrative reviews and hearings as required by  
29 federal statute for all children committed to the department and placed in  
30 out\_of\_the\_home care.

31 (11) At any time the department is considering a placement pursuant to  
32 this chapter, the department shall make a reasonable effort to place the  
33 child in the least restrictive environment to the child and in so doing shall  
34 consider, consistent with the best interest and special needs of the child,  
35 placement priority of the child in the following order:

36 (a) A fit and willing relative;

37 (b) A fit and willing nonrelative with a significant relationship with  
38 the child;

39 (c) Foster parents and other persons licensed in accordance with chap-  
40 ter 12, title 39, Idaho Code, with a significant relationship with the  
41 child;

42 (d) Foster parents and other persons licensed in accordance with chap-  
43 ter 12, title 39, Idaho Code.

44 (12) If the caseworker assigned to a foster care case recommends re-  
45 moving the child from a foster home in which the child has been placed for  
46 sixty (60) or more days, for placement in another foster home, then the case  
47 worker's supervisor shall conduct a review of the foster care case and must  
48 approve such recommendation before a change in foster home placement occurs.  
49 The supervisor shall consider the best interests and special needs of the  
50 child, including:

- 1 (a) The clearly stated reasons for the recommended change in placement;  
2 (b) The number of times the child's placement has been changed since re-  
3 moval from ~~their~~ the child's home and the reasons for each change;  
4 (c) Whether the child will change schools as a result of the change in  
5 placement; and  
6 (d) Whether the change in placement will separate or reunite siblings  
7 or affect sibling visitation.

8 (13) If the supervisor determines that the recommended change in fos-  
9 ter care placement is in the best interests of the child, then the department  
10 may change the placement of the child; provided that, the department shall  
11 give the foster parents and the court written notice of the planned change at  
12 least seven (7) days before the change in placement.

13 (14) If the caseworker determines that there is abuse or neglect or a  
14 substantial risk of abuse or neglect in the foster home, then the department  
15 may change the placement of the child without a supervisor's review; pro-  
16 vided that, the department shall give the foster parents and the court writ-  
17 ten notice of the unplanned change within seven (7) days after the change in  
18 placement.

19 (15) In its written notice of a planned or unplanned change required  
20 under this section, the department shall clearly state the reasons for the  
21 change in placement of the child.

22 SECTION 6. That Chapter 16, Title 16, Idaho Code, be, and the same is  
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
24 ignated as Section 16-1647, Idaho Code, and to read as follows:

25 16-1647. CITIZEN REVIEW PANELS -- CHILD PROTECTION LEGISLATIVE REVIEW  
26 PANEL. (1) Each public health district, as set forth in section 39-408, Idaho  
27 Code, shall establish a citizen review panel for the purposes of evaluating  
28 and providing recommendations for the improvement of the child protection  
29 system within its respective health district.

30 (2) Each citizen review panel shall be comprised of up to seven (7) mem-  
31 bers. Members shall reside within the boundaries of the public health dis-  
32 trict.

33 (3) The public health districts shall develop an application and  
34 process for selecting citizen review panel members. The public health dis-  
35 tricts shall be responsible for convening the meetings of the citizen review  
36 panels and providing administrative support to coordinate meeting times and  
37 reports. Panel members shall be volunteers broadly representative of the  
38 community in which the panel is established and include members who have  
39 expertise in the prevention and treatment of child abuse and neglect and  
40 may include adult former victims of child abuse or neglect. An effort shall  
41 be made to create a panel comprised of members from diverse professional  
42 backgrounds who demonstrate a strong motivation to improve the lives of  
43 children. Panel members must pass a criminal background check.

44 (4) Each citizen review panel shall review all cases brought under  
45 the child protective act that have been open in the corresponding district  
46 court, or other appropriate local jurisdiction, longer than one hundred  
47 twenty (120) days.

48 (5) Citizen review panel members shall be granted access to copies of  
49 all records in the department's custody related to the child and case un-

1 der review including all information pertaining to prior referrals, prior  
2 safety assessments, all court filings and any police reports. The depart-  
3 ment shall give citizen review panel members access to copies of any addi-  
4 tional records within the department's custody upon request. The depart-  
5 ment shall develop a memorandum of understanding addressing delivery, main-  
6 tenance and destruction of all records, which must be signed by the panel  
7 member before accessing department records.

8 (6) Representative members from each of the seven (7) citizen review  
9 panels shall meet at least quarterly to discuss trends and concerns aris-  
10 ing in different areas of the state. Meetings may take place telephonically,  
11 electronically or in person.

12 (7) Each citizen review panel shall produce a quarterly report contain-  
13 ing a summary of the activities of the panel and offering recommendations to  
14 improve the child protection system experience for children. Reports shall  
15 be provided to the department and presented to the child protection legisla-  
16 tive review panel established in subsection (9) of this section during its  
17 next meeting. Reports shall be exempt from public disclosure in the same  
18 manner as are records of investigations prepared by the department pursuant  
19 to section 74-105(7), Idaho Code.

20 (8) The department shall submit an annual written response to citizen  
21 review panel reports. This response shall be made available to the public  
22 and presented to the child protection legislative review panel established  
23 in subsection (9) of this section.

24 (9) A child protection legislative review panel is hereby established.  
25 The panel shall be comprised of four (4) members of the house of representa-  
26 tives chosen by the speaker of the house, with one (1) such member chosen from  
27 the house health and welfare committee and one (1) such member chosen from  
28 the house judiciary, rules and administration committee and four (4) members  
29 of the senate chosen by the president pro tempore, with one (1) such member  
30 chosen from the senate health and welfare committee and one (1) such member  
31 chosen from the senate judiciary and rules committee. The child protection  
32 legislative review panel shall meet as needed, but at least twice annually,  
33 to review citizen review panel reports and the department's annual response  
34 and for other purposes related to child protection. The child protection  
35 legislative review panel shall prepare an annual report summarizing citizen  
36 review panel recommendations and the department's response and shall submit  
37 that report to the United States department of health and human services an-  
38 nually.