



# Idaho Prosecuting Attorneys Association, Inc.

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Attachment 4

3-18-2019

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## The Idaho Prosecuting Attorneys Association's Opposition to HB 170

Dear Chairman Dayley and Members of the Judiciary, Rules, and Administration Committee,

**"...At all times, the health and safety of the child shall be the primary concern..." Idaho Code ("IC") §16-1601; Child Protective Act.**

HB 170 elevates the rights of parent or caregiver citizens, who may be abusing or neglecting children, over the rights of child citizens, who have a right to be safe.

*Imagine this scenario: A ten year old girl who has been sexually abused by her father since she was five years old finally discloses to a friend at school, who tells a teacher, who tells the principal, who calls in a referral. The child is now huddling in a fetal position in the corner of her closet while social workers knock on the door of her home; she knows why they are there. Dare she hope that her salvation is finally at hand? No; instead, the abuser answers the door, hears the warning, turns them away, and marches upstairs to belittle, gloat, and rape her again. She is lost. She will never believe that disclosure will save her. Idaho has failed her.*

Social workers respond to referrals because Idaho has demonstrated its concern for abused, abandoned, and neglected children by creating a mandatory reporting statute. (IC §16-1605). HB 170 suggests that social workers act more like law enforcement officers when responding to a home when their training, education, and goals are different from law enforcement. A social worker's job is not to start a criminal investigation, but to assess the safety of an endangered child who, "shall receive, preferably in his own home, the care, guidance and control that will promote his welfare and the best interest of the state of Idaho..." As it stands now, a social worker who is allowed in the home can assess whether a referral has any merit and offer remedial services; if he cannot inquire and assess, the recourse is to ignore the danger or involve law enforcement in more cases than may be necessary.

The warning language proposed is similar to a *Miranda* warning. However, *Miranda* only applies when there is a criminal investigation, which is not the social worker's role.

Child protection investigations that become legal cases are civil in nature and not all of them turn into criminal investigations and charges. HB 170 will result in more, not less, children being abused or neglected, which cannot be what the Legislature intends.

HB 170 will also ensure that law enforcement becomes more involved in cases where parents do not cooperate because social workers will err on the side of protecting children from possible further harm. The unintended consequences for this proposal will be more law enforcement, not less.

Protecting our most vulnerable citizens from those who would do them harm is of paramount importance. This bill, if passed, would serve to silence a child's cry for help and protect the offending parent/caretaker. This cannot be what Idaho stands for.