

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 191, As Amended in the Senate

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO DOMESTIC RELATIONS; AMENDING TITLE 32, IDAHO CODE, BY THE AD-  
2 DITION OF A NEW CHAPTER 18, TITLE 32, IDAHO CODE, TO PROVIDE FOR A  
3 DELEGATION OF PARENTAL POWERS, TO PROVIDE FOR A RETENTION OF PARENTAL  
4 RIGHTS, TO PROVIDE THAT A TEMPORARY CAREGIVER MAY NOT RECEIVE FINANCIAL  
5 PAYMENTS EXCEPT FOR THE REIMBURSEMENT OF ACTUAL EXPENSES, TO DEFINE A  
6 TERM AND TO PROVIDE FOR A CERTAIN DISCLOSURE, TO PROVIDE REQUIREMENTS  
7 FOR TEMPORARY CARE ASSISTANCE PROGRAMS, AND TO PROVIDE FOR STATUTORY  
8 CONSTRUCTION.  
9

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

11 SECTION 1. That Title 32, Idaho Code, be, and the same is hereby amended  
12 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
13 ter 18, Title 32, Idaho Code, and to read as follows:

14 CHAPTER 18

15 TEMPORARY CAREGIVERS AND TEMPORARY CARE ASSISTANCE PROGRAMS

16 32-1801. DELEGATION OF PARENTAL POWERS. (1) A parent or legal guardian  
17 of a child, by a properly executed power of attorney, may temporarily dele-  
18 gate to another person, named in the instrument as the temporary caregiver,  
19 any of the traditional parental rights and responsibilities regarding care  
20 and custody of the child except for:

- 21 (a) Consent for the child to marry;  
22 (b) Consent for an abortion or inducement of an abortion to be performed  
23 on or for the child; or  
24 (c) The termination of parental rights to the child.

25 (2) A temporary caregiver properly appointed pursuant to this chapter  
26 and in compliance with this chapter is not subject to any statutes regarding  
27 the licensing or regulation of foster care homes or other child care facility  
28 licensing statutes, and the appointment of a temporary caregiver pursuant to  
29 this chapter does not constitute an out-of-home child placement.

30 (3) The child or children subject to the power of attorney established  
31 pursuant to this section will not be considered placed in foster care, and  
32 the parties involved in the power of attorney established pursuant to this  
33 section are not subject to any requirements, monitoring, or other regulation  
34 for foster care or community care solely because of the execution of an in-  
35 strument authorized pursuant to this section.

36 (4) A delegation of parental rights and responsibilities made pursuant  
37 to this section may last for up to six (6) months.

38 32-1802. RETENTION OF PARENTAL RIGHTS. (1) A temporary delegation of  
39 rights and responsibilities under this chapter does not:

1 (a) Operate to change or modify any parental or legal rights, obliga-  
2 tions, or authority established by an existing court order;

3 (b) Deprive the parent or legal custodian of any parental or legal  
4 rights, obligations, or authority regarding the custody, visitation,  
5 or support of the child; or

6 (c) Constitute child abuse, neglect, or placement in foster care.

7 (2) The parent or legal custodian of the child has the authority to re-  
8 voke or withdraw the power of attorney authorized by section 32-1801, Idaho  
9 Code, at any time.

10 (3) Upon the termination, withdrawal, or revocation of the power  
11 of attorney established by section 32-1801, Idaho Code, the child will  
12 be returned to the custody of the parent or legal guardian no later than  
13 forty-eight (48) hours after such termination, withdrawal, or revocation.

14 32-1803. REIMBURSEMENT OF TEMPORARY CAREGIVER. A temporary caregiver  
15 appointed pursuant to section 32-1801, Idaho Code, shall not receive finan-  
16 cial payment other than reimbursement for actual expenses arising from the  
17 care of the child.

18 32-1804. DISCLOSURE OF TEMPORARY CARE ASSISTANCE PROGRAM. (1) For  
19 purposes of this section and section 32-1805, Idaho Code, "temporary care  
20 assistance program" means a program operated by an organization that assists  
21 a parent or guardian with recruiting or identifying an appropriate and safe  
22 temporary caregiver to whom the parent or guardian can choose to delegate  
23 temporary care responsibility of a minor through a power of attorney. A  
24 temporary care assistance program shall comply with nationally recognized  
25 standards, such as those found in the title IV-E prevention services clear-  
26 inghouse.

27 (2) During a child protection investigation that does not result in an  
28 out-of-home placement due to abuse of a child, the child protective inves-  
29 tigator is authorized and encouraged to provide information to the parent or  
30 legal guardian about temporary care assistance programs. The child protec-  
31 tive investigator is authorized to exercise discretion in recommending pro-  
32 grams, organizations, and resources to the parent or legal guardian.

33 32-1805. TEMPORARY CARE ASSISTANCE PROGRAM REQUIREMENTS. (1) A tempo-  
34 rary care assistance program shall check against the state's sex offender  
35 registry operated by the Idaho state police and against the national sex of-  
36 fender public website operated by the United States department of justice  
37 that checks names and addresses in the registries before allowing someone to  
38 become a temporary caregiver within the program's service. The process must  
39 include a check against the Idaho child protection central registry oper-  
40 ated by the Idaho department of health and welfare. The process must also in-  
41 clude a criminal history and background check conducted by the department of  
42 health and welfare, which may assess a fee to the temporary care assistance  
43 program to cover costs associated with the criminal history and background  
44 check.

45 (2) The temporary caregiver's residence must be inspected annually by  
46 the affiliated temporary care assistance program.

1           (3) The temporary care assistance program must disclose to any parent  
2 or guardian using its services that any delegation of parental rights and re-  
3 sponsibilities shall be made to a temporary caregiver, not to the temporary  
4 care assistance program itself.

5           32-1806. STATUTORY CONSTRUCTION. (1) Nothing in this chapter shall be  
6 construed to affect any delegation of powers made pursuant to section 15-5-  
7 104, Idaho Code.

8           (2) Nothing in this chapter shall be construed as invalidating the pro-  
9 visions of the child protective act in chapter 16, title 16, Idaho Code, or  
10 shall modify the burden of proof at any stage of proceedings under the child  
11 protective act. Nothing in this chapter shall be construed to modify any ex-  
12 isting, compelling governmental interest.