

IN THE SENATE

SENATE BILL NO. 1050

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO CHILD PROTECTION; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 16-1648, IDAHO CODE, TO ESTABLISH PRO-
3 VISIONS REGARDING A CERTAIN NOTIFICATION AND WAIVER; AND DECLARING AN
4 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
5

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

7 SECTION 1. That Chapter 16, Title 16, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 16-1648, Idaho Code, and to read as follows:

10 16-1648. NOTIFICATION OF RIGHTS. (1) When the department, in accor-
11 dance with this chapter, commences an investigation after having received
12 information that a child may be abused, neglected, or abandoned and in the
13 course of such investigation contacts, directly and in person, the parents
14 or any person or persons maintaining the custody and care of the child, then
15 the department shall notify such parents or persons that they have the right
16 to:

17 (a) Refuse to answer questions;

18 (b) Consult with an attorney and have an attorney present during an in-
19 vestigation;

20 (c) Refuse entry to their home or other real property; and

21 (d) Refuse the questioning of any minor children in their home or on
22 their property, unless there is a warrant or order issued by a court of
23 competent jurisdiction authorizing a particular entry or particular
24 questioning or examination.

25 (2) The notification required by subsection (1) of this section shall
26 be made in writing within seventy-two (72) hours after the department's
27 first contact with the parents or concerned persons.

28 (3) A parent or concerned person may waive effectuation of the rights
29 provided in subsection (1) of this section. Such waiver must be made volun-
30 tarily, knowingly, and intelligently.

31 (4) The notification required by subsection (1) of this section shall
32 be made in writing on a form that includes the following:

33 Idaho Department of Health and Welfare
34 (Office Address)
35 (Office Telephone Number)

36 Dear Sir or Madam:

37 Be advised that you are the subject of an investigation by the
38 Idaho Department of Health and Welfare for potential child
39 abuse, abandonment, or neglect. This is not an indication

1 that you are the subject of a criminal investigation. Now and
2 throughout this investigation, you have certain rights.

3 1. You have the right to refuse interviews and to refuse to
4 answer questions.

5 2. You have the right to refuse entry to your home or other
6 premises, unless there is a warrant or an order of a court
7 granting entry to your home or other premises.

8 3. You have the right to consult with an attorney at your own
9 expense and to have that attorney present during interactions
10 with the department.

11 4. You have the right to refuse the questioning of minor chil-
12 dren in your home or on your property if there is no warrant or
13 order of a court to examine your children.

14 If you have waived all or some of your rights as explained
15 and change your mind during the investigation, please inform
16 the department immediately of your desire to exercise your
17 rights.

18 (5) The parents or any person or persons maintaining the custody and
19 care of the child shall have standing to challenge a violation of the provi-
20 sions of this section, and such parents or persons shall be awarded costs and
21 attorney's fees in the event that such challenge prevails.

22 SECTION 2. An emergency existing therefor, which emergency is hereby
23 declared to exist, this act shall be in full force and effect on and after
24 July 1, 2023.