

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 220

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO BEHAVIORAL HEALTH; AMENDING SECTION 16-2403, IDAHO CODE, TO RE-  
2 VISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION  
3 16-2405, IDAHO CODE, TO REVISE PROVISIONS REGARDING CHARGES TO PARENTS;  
4 AMENDING SECTION 16-2406, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
5 ACCESS TO SERVICES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
6 16-2431, IDAHO CODE, TO REVISE PROVISIONS REGARDING COST OF INVOLUNTARY  
7 TREATMENT PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING  
8 SECTION 16-2433, IDAHO CODE, RELATING TO DEPARTMENT RULES; REPEALING  
9 SECTION 16-2434, IDAHO CODE, RELATING TO CONSTRUCTION; AMENDING SEC-  
10 TION 19-2524, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONSIDERATION  
11 OF COMMUNITY-BASED TREATMENT IN CERTAIN PROCEEDINGS AND TO MAKE TECHNI-  
12 CAL CORRECTIONS; REPEALING SECTION 39-306, IDAHO CODE, RELATING TO AC-  
13 CEPTANCE FOR TREATMENT AND RULES; AMENDING SECTION 39-309, IDAHO CODE,  
14 TO REVISE PROVISIONS REGARDING PAYMENT FOR TREATMENT AND FINANCIAL  
15 ABILITY OF PATIENTS; REPEALING SECTION 39-311, IDAHO CODE, RELATING TO  
16 RULES AND REGULATIONS; REPEALING SECTION 39-3137, IDAHO CODE, RELAT-  
17 ING TO SERVICES TO BE NONDISCRIMINATORY; REPEALING SECTION 39-3140,  
18 IDAHO CODE, RELATING TO DEPARTMENT RULES; AMENDING CHAPTER 31, TITLE  
19 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3140, IDAHO CODE, TO  
20 ESTABLISH PROVISIONS REGARDING BEHAVIORAL HEALTH SERVICE COSTS; AMEND-  
21 ING SECTION 56-1907, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 264,  
22 LAWS OF 2024, TO PROVIDE A CORRECT CODE REFERENCE, TO REDESIGNATE THE  
23 SECTION, AND TO PROVIDE FOR THE DETERMINATION OF CERTAIN COSTS; AMEND-  
24 ING SECTION 66-317, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING CHAPTER  
25 3, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-323, IDAHO  
26 CODE, TO ESTABLISH PROVISIONS REGARDING DESIGNATED EXAMINER QUALIFI-  
27 CATIONS; AMENDING CHAPTER 3, TITLE 66, IDAHO CODE, BY THE ADDITION OF A  
28 NEW SECTION 66-323A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE  
29 APPOINTMENT OF DESIGNATED EXAMINERS AND DISPOSITIONERS; AMENDING SEC-  
30 TION 20-511A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING  
31 SECTION 20-519B, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; PRO-  
32 VIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN IDAPA 16.07.01  
33 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; PROVIDING THAT CERTAIN  
34 ADMINISTRATIVE RULES CONTAINED IN IDAPA 16.07.19 SHALL BE NULL, VOID,  
35 AND OF NO FORCE AND EFFECT; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES  
36 CONTAINED IN IDAPA 16.07.39 SHALL BE NULL, VOID, AND OF NO FORCE AND EF-  
37 FECT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
38

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

40 SECTION 1. That Section 16-2403, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 16-2403. DEFINITIONS. As used in this chapter:

1 (1) "Child" means an individual less than eighteen (18) years of age and  
2 not emancipated by either marriage or legal proceeding.

3 (2) "Consistent with the least restrictive alternative principle"  
4 means that services are delivered in the setting that places the fewest  
5 restrictions on the personal liberty of the child and that provides the  
6 greatest integration with individuals who do not have disabilities, in typi-  
7 cal and age-appropriate school, community and family environments, which is  
8 consistent with safe, effective and cost-effective treatment for the child  
9 and family.

10 (3) "Department" means the department of health and welfare.

11 (4) "Designated examiner" means ~~a psychiatrist, psychologist, psychi-~~  
12 ~~atric nurse, or social worker and such other mental health professionals as~~  
13 ~~may be designated in accordance with rules promulgated pursuant to the pro-~~  
14 ~~visions of chapter 52, title 67, Idaho Code, by the department of health and~~  
15 ~~welfare. Any person designated by the department director will be specially~~  
16 ~~qualified by training and experience in the diagnosis and treatment of men-~~  
17 ~~tal or mentally related illnesses or conditions~~ an individual who meets the  
18 qualifications pursuant to section 66-323, Idaho Code.

19 (5) "Director" means the director of the state department of health and  
20 welfare.

21 (6) "Emergency" means a situation in which the child's condition, as  
22 evidenced by recent behavior, poses a significant threat to the health or  
23 safety of the child, his family or others, or poses a serious risk of sub-  
24 stantial deterioration in the child's condition which cannot be eliminated  
25 by the use of supportive services or intervention by the child's parents, or  
26 mental health professionals, and treatment in the community while the child  
27 remains in his family home.

28 (7) "Informed consent to treatment" means a knowing and voluntary de-  
29 cision to undergo a specific course of treatment, evidenced in writing, and  
30 made by an emancipated child, or a child's parent, or guardian, who has the  
31 capacity to make an informed decision, after the staff of the facility or  
32 other provider of treatment has explained the nature and effects of the pro-  
33 posed treatment.

34 (8) "Involuntary treatment" means treatment, services and placement of  
35 children provided without consent of the parent of a child, under the au-  
36 thority of a court order obtained pursuant to this chapter, as directed by  
37 an order of disposition issued by a designated employee of the department of  
38 health and welfare under section 16-2415, Idaho Code.

39 (9) "Lacks capacity to make an informed decision concerning treatment"  
40 means that the parent is unable to understand the nature and effects of hos-  
41 pitalization or treatment, or is unable to engage in a rational decision-  
42 making process regarding such hospitalization or treatment, as evidenced by  
43 an inability to weigh the risks and benefits, despite conscientious efforts  
44 to explain them in terms that the parent can understand.

45 (10) "Likely to cause harm to himself or to suffer substantial mental  
46 or physical deterioration" means that, as evidenced by recent behavior, the  
47 child:

48 (a) Is likely in the near future to inflict substantial physical injury  
49 upon himself;

1 (b) Is likely to suffer significant deprivation of basic needs such as  
2 food, clothing, shelter, health or safety; or

3 (c) Will suffer a substantial increase or persistence of symptoms of  
4 mental illness or serious emotional disturbance which is likely to re-  
5 sult in an inability to function in the community without risk to his  
6 safety or well-being or the safety or well-being of others, and which  
7 cannot be treated adequately with available home and community-based  
8 outpatient services.

9 (11) "Likely to cause harm to others" means that, as evidenced by re-  
10 cent behavior causing, attempting, or threatening such harm with the appar-  
11 ent ability to complete the act, a child is likely to cause physical injury or  
12 physical abuse to another person.

13 (12) "Protection and advocacy system" means the agency designated by  
14 the governor as the state protection and advocacy system pursuant to 42  
15 U.S.C. 6042 and 42 U.S.C. 10801 et seq.

16 (13) "Serious emotional disturbance" means a diagnostic and statisti-  
17 cal manual of mental disorders (DSM) diagnosable mental health, emotional or  
18 behavioral disorder, or a neuropsychiatric condition which results in a se-  
19 rious disability, and which requires sustained treatment interventions, and  
20 causes the child's functioning to be impaired in thought, perception, affect  
21 or behavior. A disorder shall be considered to "result in a serious disabil-  
22 ity" if it causes substantial impairment of functioning in family, school or  
23 community that is measured by and documented through the use of a standard-  
24 ized instrument approved by the department and conducted or supervised by a  
25 qualified clinician. A substance abuse disorder does not, by itself, con-  
26 stitute a serious emotional disturbance, although it may coexist with seri-  
27 ous emotional disturbance.

28 (14) "Special therapy" means any treatment modality used to treat chil-  
29 dren with serious emotional disturbances which is subject to restrictions or  
30 special conditions imposed by the department of health and welfare rules.

31 (15) "Surrogate parent" means any person appointed to act in the place  
32 of the parent of a child for purposes of developing an individual education  
33 program under the authority of the individuals with disabilities education  
34 act, 20 U.S.C. 1400 et seq., as amended.

35 (16) "Teens at risk" means individuals attending Idaho secondary pub-  
36 lic schools who have been identified as expressing or exhibiting indications  
37 of depression, suicidal inclination, emotional trauma, substance abuse or  
38 other behaviors or symptoms that indicate the existence of, or that may lead  
39 to, the development of mental illness or substance abuse.

40 (17) "Treatment facility" means a facility or program meeting applica-  
41 ble licensing standards that has been approved for the ~~provisions~~ provision  
42 of services under this chapter by the department of health and welfare.

43 SECTION 2. That Section 16-2405, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 16-2405. CHARGES TO PARENTS. Parents may be charged for services pro-  
46 vided to their children by the department ~~according to the sliding fee scale~~  
47 ~~authorized by section 16-2433~~ pursuant to section 39-3140, Idaho Code, pro-  
48 vided that all services ~~which~~ that are part of the child's free appropriate  
49 public education as defined in the individuals with disabilities education

1 act, 20 U.S.C. 1400 et seq., as amended, shall be provided to the child at no  
2 cost to the parents.

3 SECTION 3. That Section 16-2406, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 16-2406. ACCESS TO SERVICES. Access to services for children with se-  
6 rious emotional disturbance and their families shall be voluntary whenever  
7 informed consent can be obtained. Involuntary treatment or commitment to  
8 the department's custody shall not be required as a condition for obtaining,  
9 providing, or paying for treatment by the department. The department's as-  
10 sistance with paying for a child's treatment and other services under this  
11 chapter shall be ~~based upon~~ pursuant to the rules adopted by the depart-  
12 ment and ~~by the sliding fee scale developed under section 16-2433~~ section  
13 39-3140, Idaho Code. Department payments to service providers are only  
14 made pursuant to a written agreement between the department and the service  
15 provider. The agreement must reflect cost-effective services for the child.

16 (1) The family and the department may enter into a services agreement  
17 if:

18 (a) The child meets the department's eligibility criteria for treat-  
19 ment or services; and

20 (b) The child and his parents request mental health services from the  
21 department; or

22 (c) The family requests full or partial payment for services by the de-  
23 partment (other than payment through medical assistance, title XIX of  
24 the social security act, as amended); or

25 (d) The youth is involuntarily placed by the department ~~under~~ pursuant  
26 to this chapter.

27 (2) For purposes of this chapter, a services agreement is a written  
28 agreement, binding on the parties, which specifies at a minimum:

29 (a) The legal status of the child; and

30 (b) The rights and obligations of the parents or guardians, the child  
31 and the department while the child is in the out-of-home placement.

32 (3) When a child is placed out of his home pursuant to a services agree-  
33 ment or a one hundred twenty (120) day involuntary treatment order by the  
34 court, the department shall have the responsibility for the child's place-  
35 ment and care. The financial obligation of the family will be determined  
36 after consideration of all available payment and funding sources including  
37 title XIX of the social security act, as amended, all available third-party  
38 sources, and parent resources according to any order for child support ~~under~~  
39 pursuant to chapter 10, title 32, Idaho Code. Services shall not be condi-  
40 tioned on transfer of custody or parental rights.

41 SECTION 4. That Section 16-2431, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 16-2431. COST OF INVOLUNTARY TREATMENT PROCEEDINGS. All costs as-  
44 sociated with the involuntary treatment proceedings, including usual and  
45 customary fees of designated examiners, transportation costs and all med-  
46 ical, psychiatric and hospital costs, shall be the responsibility of the  
47 parents of the child according to their ability to pay, ~~based on the sliding~~

1 ~~fee scale established under section 16-2433~~ pursuant to section 39-3140,  
 2 Idaho Code, or, if indigent, the county of such child's residence after all  
 3 personal, family and third-party resources, including medical assistance  
 4 as authorized by title XIX of the social security act, as amended, are con-  
 5 sidered. The department shall assume responsibility for usual and customary  
 6 treatment costs when the order for involuntary treatment is signed until  
 7 the involuntary person is discharged and after all personal, family and  
 8 third-party resources are considered in accordance with section 66-354,  
 9 Idaho Code. For the purposes of this section, "usual and customary treatment  
 10 costs" includes room and board; support services rendered at a facility of  
 11 the department; routine physical, medical, psychological and psychiatric  
 12 examination and testing; and group and individual therapy, psychiatric  
 13 treatment, medication and medical care ~~which~~ that can be provided at a fa-  
 14 cility of the department or approved by the department. The term "usual  
 15 and customary treatment costs" shall not include witness fees and expenses  
 16 for court appearances. Counties shall have no responsibility for costs of  
 17 voluntary treatment of children under this chapter. Counties shall have  
 18 no responsibility to pay for the cost of involuntary treatment of children  
 19 after the court order is signed. This section does not affect the right of  
 20 any child to receive free mental health or developmental disability services  
 21 under any publicly supported program or the right of any parent to reim-  
 22 bursement from, or payment on the child's behalf by, any publicly supported  
 23 program or private insurer.

24 SECTION 5. That Section [16-2433](#), Idaho Code, be, and the same is hereby  
 25 repealed.

26 SECTION 6. That Section [16-2434](#), Idaho Code, be, and the same is hereby  
 27 repealed.

28 SECTION 7. That Section 19-2524, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30 19-2524. CONSIDERATION OF COMMUNITY-BASED TREATMENT TO MEET BEHAV-  
 31 IORAL HEALTH NEEDS IN SENTENCING AND POST-SENTENCING PROCEEDINGS. (1) After  
 32 a defendant has pled guilty to or been found guilty of a felony, and at any  
 33 time thereafter while the court exercises jurisdiction over the defendant,  
 34 behavioral health needs determinations shall be conducted when and as pro-  
 35 vided by this section.

36 (a) As part of the presentence process, a screening to determine  
 37 whether a defendant is in need of a substance use disorder assessment  
 38 and/or a mental health examination shall be made in every felony case  
 39 unless the court waives the requirement for a screening. The screening  
 40 shall be performed within seven (7) days after the plea of guilty or  
 41 finding of guilt.

42 (b) At any time after sentencing while the court exercises jurisdiction  
 43 over the defendant, the court may order such a screening to be performed  
 44 by individuals authorized or approved by the department of correction  
 45 if the court determines that one is indicated. The screening shall be  
 46 performed within seven (7) days after the order of the court requiring  
 47 such screening.

1 (2) Substance use disorder provisions.

2 (a) Should a screening indicate the need for further assessment of a  
3 substance use disorder, the necessary assessment shall be timely per-  
4 formed so as to avoid any unnecessary delay in the criminal proceeding  
5 and not later than thirty-five (35) days after a plea of guilty or find-  
6 ing of guilt or other order of the court requiring such screening. The  
7 assessment may be performed by qualified employees of the department of  
8 correction or by private providers approved by the department of health  
9 and welfare. If the screening or assessment is not timely completed,  
10 the court may order that the screening be performed by another qualified  
11 provider.

12 (b) Following completion of the assessment, the results of the assess-  
13 ment, including a determination of whether the defendant meets diagnos-  
14 tic criteria for a substance use disorder and the recommended level of  
15 care, shall be submitted to the court as part of the presentence inves-  
16 tigation report or other department of correction report to the court.

17 (c) Following the entry of a plea of guilty or a finding of guilt, the  
18 court may order, as a condition of the defendant's continued release on  
19 bail or on the defendant's own recognizance, that, if the assessment re-  
20 flects that the defendant meets diagnostic criteria for a substance use  
21 disorder, the defendant shall promptly, and prior to sentencing, begin  
22 treatment at the recommended level of care.

23 (d) If the court concludes at sentencing, or at any time after sentenc-  
24 ing while the court exercises jurisdiction over the defendant, that the  
25 defendant meets diagnostic criteria for a substance use disorder, and  
26 if the court places the defendant on probation, the court may order the  
27 defendant, as a condition of probation, to undergo treatment at the rec-  
28 ommended level of care, subject to modification of the level of care by  
29 the court. If substance use disorder treatment is ordered, all treat-  
30 ment shall be performed by a qualified private provider approved by the  
31 department of health and welfare. The court may order that, if the level  
32 of care placement or the treatment plan is modified in any material  
33 term, the department of correction shall notify the court stating the  
34 reason for the modifications and informing the court as to the clin-  
35 ical alternatives available to the defendant. The level of care for  
36 substance use treatment shall be based ~~upon~~ on each probationer's risk  
37 assessment with priority given to probationers with high or moderate  
38 risk levels.

39 (e) In no event shall the persons or facility doing the substance use  
40 assessment be the person or facility that provides the substance use  
41 treatment unless this requirement is waived by the court or where the  
42 assessment and treatment are provided by or through a federally recog-  
43 nized Indian tribe or federal military installation where diagnosis and  
44 treatment are appropriate and available.

45 (f) Defendants who have completed department of correction institu-  
46 tional programs may receive aftercare services from qualified employ-  
47 ees of the department of correction.

48 (g) The expenses of all screenings and assessments for substance use  
49 disorder provided or ordered ~~under~~ pursuant to this section shall be  
50 borne by the department of correction. The expenses for treatment pro-

1 vided or ordered ~~under~~ pursuant to this section shall be borne by the  
2 department of correction unless the defendant is placed in a treatment  
3 program that is funded by an alternate source. The department of cor-  
4 rection shall be entitled to any payment received by the defendant or to  
5 which he may be entitled from any public or private source available to  
6 the department of correction for the service provided to the defendant.  
7 The department of correction may promulgate rules for a schedule of fees  
8 to be charged to the defendant for the substance use disorder assess-  
9 ments and treatments provided to the defendant based ~~upon~~ on the actual  
10 costs of such services and the ability of the defendant to pay. The  
11 department of correction shall ~~use the state-approved financial eligi-~~  
12 ~~bility form and reimbursement schedule as set forth in IDAPA 16.07.01~~  
13 determine costs pursuant to section 39-3140, Idaho Code.

14 (3) Mental health provisions.

15 (a) Should the mental health screening indicate that a serious mental  
16 illness may be present, then the department of correction shall refer  
17 the defendant to the department of health and welfare for further exam-  
18 ination. The examination shall be timely performed so as to avoid any  
19 unnecessary delay in the criminal proceeding and not later than thirty-  
20 five (35) days after a plea of guilty or finding of guilt or other order  
21 of the court requiring such screening.

22 (b) The examination may be performed by qualified department of health  
23 and welfare employees or by private providers under contract with the  
24 department of health and welfare, provided that such examination shall  
25 at a minimum include an in-depth evaluation of the following:

26 (i) Mental health concerns;

27 (ii) Psychosocial risk factors;

28 (iii) Medical, psychiatric, developmental and other relevant his-  
29 tory;

30 (iv) Functional impairments;

31 (v) Mental status examination;

32 (vi) Multiaxial diagnoses; and

33 (vii) Any other examinations necessary to provide the court with  
34 the information set forth in paragraph (c) of this subsection.

35 (c) Upon completion of the mental health examination, the court shall  
36 be provided, as part of the presentence report or other department of  
37 health and welfare report to the court, a copy of the mental health as-  
38 sessment along with a summary report. The summary report shall include  
39 the following:

40 (i) Description and nature of the examination;

41 (ii) Multiaxial diagnoses;

42 (iii) Description of the defendant's diagnosis and if the defen-  
43 dant suffers from a serious mental illness (SMI) as that term is  
44 now defined, or is hereafter amended, in IDAPA 16.07.33.011, to  
45 also include post-traumatic stress disorder;

46 (iv) An analysis of the degree of impairment due to the defen-  
47 dant's diagnosis;

48 (v) Consideration of the risk of danger the defendant may create  
49 for the public; and

1 (vi) If the defendant suffers from a serious mental illness, the  
2 report shall also include a plan of treatment that addresses the  
3 following:

- 4 1. An analysis of the relative risks and benefits of treat-  
5 ment versus nontreatment;  
6 2. Types of treatment appropriate for the defendant; and  
7 3. Beneficial services to be provided.

8 (d) If the court, after receiving a mental health examination and plan  
9 of treatment, determines that additional information is needed regard-  
10 ing the mental condition of the defendant or the risk of danger such con-  
11 dition may create for the public, the court may order additional evalua-  
12 tions and/or recommendations for treatment to be furnished by a psychi-  
13 atrist, licensed physician or licensed psychologist.

14 (e) If the court concludes that the defendant suffers from a serious  
15 mental illness as defined in paragraph (c) (iii) of this subsection and  
16 that treatment is available for such serious mental illness, then the  
17 court may order, as a condition of the defendant's release on bail or on  
18 the defendant's own recognizance or as a condition of probation, that  
19 the defendant undergo treatment consistent with the plan of treatment,  
20 subject to modification of the plan of treatment by the court. If the  
21 plan of treatment is modified in any material term, the department of  
22 health and welfare shall notify the court in a timely manner stating the  
23 reasons for the modification and informing the court as to the clinical  
24 alternatives available to the defendant.

25 (f) If treatment is ordered, all treatment shall be performed by a  
26 provider approved by the department of health and welfare.

27 (g) Mental health examinations and/or treatment provided or ordered  
28 ~~under pursuant to this section shall be secured by the department of~~  
29 ~~health and welfare. The department of health and welfare shall exhaust~~  
30 ~~efforts to assist the defendant in gaining access to health care bene-~~  
31 ~~fits that will cover the defendant's mental health treatment needs. To~~  
32 ~~the extent that health care benefits are not available to the defendant~~  
33 ~~for the treatment, the expenses for treatment shall be borne by the~~  
34 ~~department of health and welfare. The expenses of all mental health ex-~~  
35 ~~aminations provided or ordered under this section shall be borne by the~~  
36 ~~department of health and welfare. The department of health and welfare~~  
37 ~~shall be entitled to any payment received by the defendant or to which~~  
38 ~~he may be entitled from any public or private source available to the~~  
39 ~~department of health and welfare for the service provided to the defen-~~  
40 ~~dant. The department of health and welfare is authorized to promulgate~~  
41 ~~rules for a schedule of fees to be charged to the defendant for the men-~~  
42 ~~tal health examinations and treatments provided to the defendant based~~  
43 ~~upon the actual costs of such services and the ability of the defendant~~  
44 ~~to pay. The department of health and welfare shall use the state ap-~~  
45 ~~proved financial eligibility form and reimbursement schedule as set~~  
46 ~~forth in IDAPA 16.07.01 determine costs pursuant to section 39-3140,~~  
47 Idaho Code. The defendant shall pay the fee for the mental health exam-  
48 inations and treatments consistent with the rules of the department of  
49 health and welfare.



1 (4) Unless otherwise ordered by the court, if the defendant is in treat-  
2 ment for a substance use disorder or mental illness, any substance use disor-  
3 der assessment required ~~under~~ pursuant to subsection (2) of this section or  
4 mental health examination required ~~under~~ pursuant to subsection (3) of this  
5 section need not be performed while the defendant is in such treatment. In  
6 such circumstances, the court may make such order as it finds appropriate to  
7 facilitate the completion of the sentencing process or other proceeding be-  
8 fore the court, including providing for the assessment and treatment records  
9 to be included in the presentence investigation report or other report to the  
10 court.

11 (5) Any substance use disorder assessment including any recommended  
12 level of care or mental health examination including any plan of treatment  
13 shall be delivered to the court, the defendant and the prosecuting attorney  
14 prior to any sentencing hearing or probation revocation hearing.

15 (6) A substance use disorder assessment prepared pursuant to the provi-  
16 sions of this section shall satisfy the requirement of an alcohol evaluation  
17 prior to sentencing set forth in section 18-8005(11), Idaho Code, and shall  
18 also satisfy the requirement of a substance abuse evaluation prior to sen-  
19 tencing set forth in section 37-2738, Idaho Code.

20 (7) If the defendant is sentenced to the custody of the board of correc-  
21 tion, then any substance use disorder assessment, mental health examination  
22 or plan of treatment shall be sent to the department of correction along with  
23 the presentence report.

24 SECTION 8. That Section [39-306](#), Idaho Code, be, and the same is hereby  
25 repealed.

26 SECTION 9. That Section 39-309, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 39-309. PAYMENT FOR TREATMENT -- FINANCIAL ABILITY OF PATIENTS. (1) If  
29 treatment is provided by an approved public treatment facility the depart-  
30 ment and the patient has not paid the charge therefor, the department is en-  
31 titled to any income or payment received by the patient or to which he may  
32 be entitled for the services rendered, and to any payment from any public or  
33 private source available to the department because of the treatment provided  
34 to the patient.

35 (2) A patient in an approved treatment facility, or the estate of the  
36 patient, or a person obligated to provide for the cost of treatment and hav-  
37 ing sufficient financial ability, is liable to the department for the cost of  
38 transportation, maintenance and treatment of the patient therein in accor-  
39 dance with rates established by the department.

40 ~~(3) The board of health and welfare shall adopt rules and regulations~~  
41 ~~governing financial ability that take into consideration the income, sav-~~  
42 ~~ings and other personal and real property of the person required to pay, as~~  
43 ~~well as any support being furnished by him to any person whom he may be re-~~  
44 ~~quired by law to support.~~

45 SECTION 10. That Section [39-311](#), Idaho Code, be, and the same is hereby  
46 repealed.

1 SECTION 11. That Section [39-3137](#), Idaho Code, be, and the same is hereby  
2 repealed.

3 SECTION 12. That Section [39-3140](#), Idaho Code, be, and the same is hereby  
4 repealed.

5 SECTION 13. That Chapter 31, Title 39, Idaho Code, be, and the same is  
6 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
7 ignated as Section 39-3140, Idaho Code, and to read as follows:

8 39-3140. BEHAVIORAL HEALTH SERVICE COSTS. (1) As used in this section,  
9 "behavioral health services" means both voluntary and court-ordered ser-  
10 vices for the following programs:

11 (a) Regional behavioral health services pursuant to chapter 31, title  
12 39, Idaho Code;

13 (b) Children's mental health services pursuant to chapter 24, title 16,  
14 Idaho Code;

15 (c) Neurocognitive disorder services pursuant to chapter 21, title 56,  
16 Idaho Code; and

17 (d) Any other behavioral health program provided for by Idaho Code.

18 (2) Individuals receiving behavioral health services from the depart-  
19 ment may be charged for such services. The department shall serve as the  
20 payer of last resort in cases in which the individual qualifies for medicaid  
21 or has third-party coverage. The amount charged will be determined based on  
22 the cost of services and the individual's ability to pay. In no case will the  
23 annual costs to parents or an adult patient exceed five percent (5%) of ad-  
24 justed gross income of the family household, following all other coverage.

25 SECTION 14. That Section 56-1907, Idaho Code, as enacted by Section 1,  
26 Chapter 264, Laws of 2024, be, and the same is hereby amended to read as fol-  
27 lows:

28 ~~56-1907~~ 56-2107. RESPONSIBILITY FOR COSTS OF PROTECTIVE CUSTODY AND  
29 CARE OF PATIENTS. (1) As used in this section:

30 (a) "Protective custody period" means a period that begins when a  
31 person is taken into custody pursuant to sections ~~56-1904~~ and ~~56-1905~~  
32 56-2104 and 56-2105, Idaho Code, and ends when the patient is released  
33 from protective custody.

34 (b) "Routine medical care" includes care provided during the protec-  
35 tive custody period that includes hospital costs, including routine  
36 board, room, and support services.

37 (c) "Third-party applicant" means a person other than a patient who  
38 completes, signs, and files an application for medicaid on behalf of the  
39 patient. A third-party applicant may be an adult who is a member of the  
40 patient's family or household, the patient's authorized representa-  
41 tive, or, if the patient is incapacitated, someone, including an agent  
42 of a facility, who is acting responsibly for the patient.

43 (2) In instances where the person placed in protective custody is re-  
44 leased with no underlying medical conditions in addition to the person's  
45 neurocognitive disorder having been identified, costs associated with the  
46 protective custody shall be the responsibility of the person placed in

1 protective custody, subject to the department of health and welfare's deter-  
 2 mination of the person's ability to pay all or any part of such costs. The  
 3 department shall:

4 ~~(a) Use the state approved fee determination form and sliding fee~~  
 5 ~~schedule described in rules promulgated by the department to deter-~~  
 6 ~~mine the person's ability to pay~~ Determine costs pursuant to section  
 7 39-3140, Idaho Code;

8 (b) Inquire to determine if the person has insurance, including medical  
 9 assistance provided under the state plan for medicaid as authorized by  
 10 title XIX of the social security act, as amended; and

11 (c) Report its findings to the court.

12 (3) The court may order a person to pay costs consistent with this sec-  
 13 tion.

14 (4) To the extent possible, the costs of routine medical care incurred  
 15 during protective custody shall be assigned to a person's health insurance,  
 16 including medical assistance provided under the state plan for medicaid as  
 17 authorized by title XIX of the social security act, as amended. If a person  
 18 may be eligible for medicaid but has not applied, a third-party applicant,  
 19 including an agent at a hospital where a person is taken into custody or de-  
 20 tained under this chapter, may submit a medicaid application to the depart-  
 21 ment of health and welfare. The medical care provided while the person is in  
 22 protective custody shall be presumed to be medically necessary for purposes  
 23 of determining reimbursement for that care by third-party payers.

24 (5) Remaining costs for routine medical care shall be apportioned as  
 25 follows:

26 (a) The department of health and welfare shall pay providers at the rate  
 27 established by medicaid or its managed care organization. If, based on  
 28 the department of health and welfare's determination under subsection  
 29 (2) of this section, the person is able to pay a portion of the medi-  
 30 cal costs, the person shall reimburse the department consistent with  
 31 the department's ~~sliding fee schedule~~ determination of costs pursuant  
 32 to section 39-3140, Idaho Code; or

33 (b) Costs for routine medical care during the protective placement pe-  
 34 riod shall be paid by the department of health and welfare, consistent  
 35 with the process described in paragraph (a) of this subsection.

36 SECTION 15. That Section 66-317, Idaho Code, be, and the same is hereby  
 37 amended to read as follows:

38 66-317. DEFINITIONS. As used in this chapter:

39 (1) "Department director" means the director of the state department of  
 40 health and welfare.

41 (2) "Voluntary patient" means an individual admitted to a facility for  
 42 evaluation pursuant to section 18-211, Idaho Code, or admitted to a facility  
 43 for observation, diagnosis, evaluation, care, or treatment pursuant to sec-  
 44 tion 66-318, Idaho Code.

45 (3) "Involuntary patient" means an individual committed pursuant to  
 46 section 18-212, 66-329, or 66-1201, Idaho Code.

47 (4) "Designated examiner" means ~~a psychiatrist, psychologist, psychi-~~  
 48 ~~atric nurse, or social worker and such other mental health professionals as~~  
 49 ~~may be designated in accordance with rules promulgated pursuant to the pro-~~

1 ~~visions of chapter 52, title 67, Idaho Code, by the department of health and~~  
2 ~~welfare. Any person designated by the department director or the department~~  
3 ~~director's designee will be specially qualified by licensure, training, and~~  
4 ~~experience in the diagnosis and treatment of mental or mentally related ill-~~  
5 ~~nesses or conditions~~ an individual who meets the qualifications pursuant to  
6 section 66-323, Idaho Code.

7 (5) "Dispositioner" means a designated examiner employed by or under  
8 contract with the department of health and welfare and designated by the de-  
9 partment director to determine the appropriate location for care and treat-  
10 ment of involuntary patients.

11 (6) "Facility" means any public or private hospital, state hospital,  
12 institution, mental health center, or other organization designated in ac-  
13 cordance with rules adopted by the board of health and welfare as equipped  
14 to initially hold, evaluate, rehabilitate, or provide care or treatment, or  
15 both, for the mentally ill.

16 (7) "Lacks capacity to make informed decisions about treatment" means  
17 the inability, by reason of mental illness, to achieve a rudimentary under-  
18 standing after conscientious efforts at explanation of the purpose, nature,  
19 and possible significant risks and benefits of treatment.

20 (8) "Inpatient treatment facility" means a facility in which an indi-  
21 vidual receives medical and mental treatment for not less than a continuous  
22 twenty-four (24) hour period.

23 (9) "Supervised residential facility" means a facility, other than the  
24 individual's home, in which the individual lives and in which there live, or  
25 are otherwise on duty during the times that the individual's presence is ex-  
26 pected, persons who are employed to supervise, direct, treat, or monitor the  
27 individual.

28 (10) "Likely to injure himself or others" means:

29 (a) A substantial risk that physical harm will be inflicted by the pro-  
30 posed patient upon his own person, as evidenced by threats or attempts  
31 to commit suicide or inflict physical harm on himself; or

32 (b) A substantial risk that physical harm will be inflicted by the pro-  
33 posed patient upon another as evidenced by behavior that has caused such  
34 harm or that places another person or persons in reasonable fear of sus-  
35 taining such harm; or

36 (c) The proposed patient lacks insight into his need for treatment and  
37 is unable or unwilling to comply with treatment and, based on his psy-  
38 chiatric history, clinical observation or other clinical evidence, if  
39 he does not receive and comply with treatment, there is a substantial  
40 risk he will continue to physically, emotionally or mentally deterio-  
41 rate to the point that he will, in the reasonably near future, inflict  
42 physical harm on himself or another person.

43 (11) "Mentally ill" means a condition resulting in a substantial dis-  
44 order of thought, mood, perception, or orientation that grossly impairs  
45 judgment, behavior, or capacity to recognize and adapt to reality and re-  
46 quires care and treatment at a facility or through outpatient treatment.  
47 However, the term "mentally ill" does not include conditions discussed in  
48 section 66-329(13) (a), Idaho Code.

49 (12) "Gravely disabled" means the condition of a person who, as the re-  
50 sult of mental illness, has demonstrated an inability to:

1 (a) Attend to basic physical needs, such as medical care, food, cloth-  
2 ing, shelter, or safety;

3 (b) Protect himself from harm or victimization by others;

4 (c) Exercise sufficient behavioral control to avoid serious criminal  
5 justice involvement; or

6 (d) Recognize that he is experiencing symptoms of a serious mental ill-  
7 ness and lacks the insight into his need for treatment, whereby the sub-  
8 sequent absence of treatment may result in deterioration of his condi-  
9 tion such that any of the circumstances listed in this subsection may be  
10 satisfied in the near future.

11 (13) "Neurocognitive disorder" means decreased mental function due to a  
12 medical disease other than a psychiatric illness, including:

13 (a) Alzheimer's disease;

14 (b) Frontotemporal lobar degeneration;

15 (c) Lewy body dementia;

16 (d) Vascular dementia;

17 (e) Traumatic brain injury;

18 (f) Inappropriate use or abuse of substances or medications;

19 (g) Infection with human immunodeficiency virus;

20 (h) Prion diseases;

21 (i) Parkinson's disease; or

22 (j) Huntington's disease.

23 (14) "Outpatient treatment" means mental health treatment, not involv-  
24 ing the continuous supervision of a person in an inpatient setting, that is  
25 reasonably designed to alleviate or to reduce a person's mental illness or to  
26 maintain or prevent deterioration of the person's physical, mental, or emo-  
27 tional functioning. Mental health services or treatment may include, but  
28 need not be limited to, taking prescribed medication, reporting to a facil-  
29 ity to permit monitoring of the person's condition, or participating in in-  
30 dividual or group therapy.

31 (15) "Protection and advocacy system" means the agency designated by  
32 the governor as the state protection and advocacy system pursuant to 42  
33 U.S.C. 15043 and 42 U.S.C. 10801 et seq.

34 (16) "Holding proceedings in abeyance" means an alternative to judicial  
35 commitment based on an agreement entered into by all parties, including the  
36 proposed patient, and agreed to by the court, providing for voluntary condi-  
37 tions of treatment, which hold in a state of suspension or inactivity the pe-  
38 tition for involuntary commitment.

39 (17) "Senior designated examiner" means ~~a licensed psychiatrist, li-~~  
40 ~~icensed psychologist, licensed physician, or any of the following an individ-~~  
41 ~~ual~~ who has three (3) years of experience as a designated examiner and five  
42 (5) years of post-master's degree experience in a mental health field and who  
43 has been approved by the department director or the department director's  
44 designee to act as a senior designated examiner~~±.~~

45 ~~(a) A licensed clinical social worker;~~

46 ~~(b) A licensed clinical professional counselor; or~~

47 ~~(c) A licensed marriage and family therapist.~~

48 SECTION 16. That Chapter 3, Title 66, Idaho Code, be, and the same is  
49 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
50 ignated as Section 66-323, Idaho Code, and to read as follows:

1           66-323. DESIGNATED EXAMINER QUALIFICATIONS. (1) To be appointed and  
2 practice as a designated examiner, an applicant shall meet the qualifica-  
3 tions required by this section.

4           (2) A designated examiner shall maintain professional licensure for  
5 the duration of the designated examiner's appointment and shall be one (1)  
6 of the following:

- 7           (a) A physician;
- 8           (b) A psychologist;
- 9           (c) An advanced practice registered nurse;
- 10          (d) A clinical professional counselor;
- 11          (e) A professional counselor;
- 12          (f) A clinical social worker;
- 13          (g) A social worker who holds a master's of social work degree;
- 14          (h) A marriage and family therapist;
- 15          (i) A physician assistant;
- 16          (j) A psychiatrist; or
- 17          (k) A psychiatric nurse.

18          (3) A designated examiner shall have at least two (2) years of post-de-  
19 gree experience in a clinical mental health setting and:

- 20          (a) Experience in the assessment of the likelihood of danger to self or  
21 others, grave disability, capacity to give informed consent, and capac-  
22 ity to understand legal proceedings;
- 23          (b) Experience in the use of appropriate diagnostic criteria;
- 24          (c) Experience in the treatment of mental health disorders, including  
25 knowledge of treatment modalities and experience applying treatment  
26 modalities in a clinical setting; and
- 27          (d) An understanding of the differences between behavior due to mental  
28 illness that poses a substantial threat or risk of serious harm to self  
29 or others or that may result in grave disability and behavior that does  
30 not represent such a threat or risk.

31          (4) A designated examiner shall have knowledge of and experience apply-  
32 ing Idaho mental health law based on the training required pursuant to this  
33 section and:

- 34          (a) Experience that demonstrates understanding of the judicial process  
35 and the conduct of commitment hearings;
- 36          (b) Experience preparing reports for the court and testifying before  
37 a court of law and a demonstrated ability to provide the court with a  
38 complete oral and written evaluation that addresses the standards and  
39 questions set forth by law; and
- 40          (c) Knowledge of a client's legal rights.

41          (5) A designated examiner shall have completed a minimum of six (6)  
42 hours of training on the role of designated examiners and the processes used  
43 in fulfilling the responsibilities of designated examiners and a minimum  
44 of four (4) additional hours observing a designated examiner conducting a  
45 designated examination.

46           SECTION 17. That Chapter 3, Title 66, Idaho Code, be, and the same is  
47 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
48 ignated as Section 66-323A, Idaho Code, and to read as follows:

1           66-323A. DESIGNATED EXAMINER AND DISPOSITIONER -- APPOINTMENT. (1) An  
2 applicant seeking an appointment or reappointment as a designated examiner  
3 or dispositioner shall:

4           (a) Complete an application using forms approved by the department; and  
5           (b) Provide the department with verification of the applicant's cre-  
6 dentials, including:

- 7           (i) How the applicant meets the requirements of this chapter;  
8           (ii) Documentation of current licensure;  
9           (iii) Evidence of completion of the required training pursuant to  
10 section 66-323, Idaho Code, within sixty (60) days prior to the  
11 date of application;  
12           (iv) Evidence of a favorable recommendation from an authorized  
13 representative of the department; and  
14           (v) Documentation of a background check clearance completed  
15 within ninety (90) days of the date of the application. Applicants  
16 who are current employees of the department may use a previous  
17 background check clearance received through the applicant's de-  
18 partment employment.

19           (2) The department shall notify each applicant in writing of the  
20 department's decision within sixty (60) days of the date the completed ap-  
21 plication was received by the department. A provisional designation may  
22 be granted for individuals who meet all criteria and have submitted a back-  
23 ground check application if no disqualifying crimes or relevant records are  
24 disclosed on the application.

25           (3) Appointments shall expire two (2) years from the date of appoint-  
26 ment, unless the appointee applies for, and is granted, a reappointment. A  
27 request for reappointment must be received by the department at least sixty  
28 (60) days prior to the expiration date of the previous appointment.

29           (4) The department may deny, suspend, or revoke the appointment or  
30 reappointment of a designated examiner, a senior designated examiner, or a  
31 dispositioner:

32           (a) Without prior notice when conditions exist that endanger the health  
33 or safety of any client; or

34           (b) With prior notice for any of the following reasons:

- 35           (i) Failure to comply with the provisions of this chapter;  
36           (ii) Failure to furnish data, information, or records as re-  
37 quested by the department;  
38           (iii) Revocation or suspension of the appointee's license;  
39           (iv) Refusal to participate in a quality assurance process as re-  
40 quested by the department;  
41           (v) Inadequate knowledge or performance, as demonstrated by re-  
42 peated substandard peer or quality assurance reviews;  
43           (vi) Misrepresentation by the appointee in the appointee's ap-  
44 plication or required documents;  
45           (vii) A conflict of interest in which an appointee exploits the  
46 appointee's position as a designated examiner, senior designated  
47 examiner, or dispositioner for personal benefit;  
48           (viii) A criminal, civil, or administrative determination that  
49 the appointee has committed fraud or gross negligence in the ap-

1           pointee's capacity as a designated examiner, senior designated  
2           examiner, or dispositioner;

3           (ix) The substantiated disposition of a child protection refer-  
4           ral or adult protection referral; or

5           (x) Failure to correct any unacceptable conduct, practice, or  
6           condition as determined by the department to be detrimental to  
7           public health or safety within thirty (30) days of written notice.

8           (5) Applicants and appointees may appeal a department decision to deny,  
9           suspend, or revoke an appointment in accordance with the provisions of chap-  
10          ter 52, title 67, Idaho Code.

11          (6) Following the denial, suspension, or revocation of appointment or  
12          reappointment, the same appointee may not reapply for appointment for a pe-  
13          riod of one (1) year after the effective date of the action.

14          SECTION 18. That Section 20-511A, Idaho Code, be, and the same is hereby  
15          amended to read as follows:

16          20-511A. MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT. (1) A judge  
17          of any court shall order the department of health and welfare to submit ap-  
18          propriate mental health assessments and a plan of treatment for the court's  
19          approval if at any stage of a proceeding under this chapter or the child pro-  
20          tective act, chapter 16, title 16, Idaho Code, a judge has reason to believe,  
21          based upon the record and proceedings of the court or upon an affidavit of a  
22          party, state or county agency or any person having physical custody of the  
23          juvenile or juvenile offender, that he or she:

24          (a) Is suffering a substantial increase or persistence of a serious  
25          emotional disturbance as defined in section 16-2403, Idaho Code, which  
26          impairs his or her ability to comply with the orders and directives of  
27          the court, or which presents a risk to his or her safety or well-being or  
28          the safety of others; and

29          (b) Such condition has not been adequately addressed with supportive  
30          services and/or corrective measures previously provided to the juve-  
31          nile, or the juvenile's needs with respect to the serious emotional dis-  
32          turbance are not being met or have not been met.

33          (2) The court may convene a screening team consisting of representa-  
34          tives from the department of health and welfare, county probation, local  
35          school officials, teen early intervention specialists as provided for un-  
36          der section 16-2404A, Idaho Code, the department of juvenile corrections  
37          and/or other agencies or persons designated by the court to review the plan  
38          of treatment and provide written recommendations to the court. Parents  
39          and guardians of the juvenile or juvenile offender, if available, shall  
40          be included in the screening team and consulted with regard to the plan of  
41          treatment.

42          (3) If the court, after receiving the mental health assessment and plan  
43          of treatment submitted by the department of health and welfare and any recom-  
44          mendations from the screening team, determines that additional information  
45          is necessary to determine whether the conditions set forth in subsections  
46          (1) (a) and (1) (b) of this section are present, or to determine an appropriate  
47          plan of treatment for the juvenile or juvenile offender, the court may order  
48          an evaluation and/or recommendations for treatment to be furnished by a psy-  
49          chiatrist, licensed physician or licensed psychologist, with the expenses



1 of such evaluation and/or recommendations to be borne by the department of  
2 health and welfare.

3 (4) If the court concludes that the conditions set forth in subsections  
4 (1) (a) and (1) (b) of this section are present, the plan of treatment, as  
5 approved by the court, shall be entered into the record as an order of the  
6 court. The department of health and welfare shall provide mental health  
7 treatment as designated by the approved plan of treatment. If in-patient  
8 or residential treatment is required as part of the plan of treatment, the  
9 court shall hold a hearing on whether to order such treatment unless the  
10 hearing is waived by the juvenile or juvenile offender and his or her parents  
11 or guardians. The court may order parents, legal guardians or custodians  
12 to adhere to the treatment designated in the plan of treatment. Represent-  
13 tives from the department of health and welfare, county probation, local  
14 school officials, teen early intervention specialists as provided for under  
15 section 16-2404A, Idaho Code, the department of juvenile corrections and/or  
16 other agencies or persons designated by the court shall attend case review  
17 hearings as scheduled by the court.

18 (5) All costs associated with assessment and treatment shall be the  
19 responsibility of the parents of the juvenile or juvenile offender according  
20 to their ability to pay ~~based upon the sliding fee scale established~~ pursuant  
21 to section ~~16-2433~~ 39-3140, Idaho Code. The financial obligation of the  
22 family shall be determined after consideration of all available payment and  
23 funding sources including title XIX of the social security act, as amended,  
24 all available third party sources, and parent resources according to any or-  
25 der for child support under chapter 10, title 32, Idaho Code. Services shall  
26 not be conditioned upon transfer of custody or parental rights.

27 SECTION 19. That Section 20-519B, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 20-519B. DETERMINATION OF COMPETENCY OF JUVENILE TO PROCEED -- SUS-  
30 PENSION OF PROCEEDINGS -- RESTORATION ORDER -- COMMITMENT. (1) The court  
31 shall hold a hearing no later than thirty (30) days after the report of the  
32 examiner or evaluation committee is filed pursuant to the provisions of sec-  
33 tion 20-519A, Idaho Code. At the hearing, the court may receive as evidence  
34 the report of the examiner or evaluation committee. In considering whether  
35 the juvenile is competent to proceed, the court shall consider the follow-  
36 ing:

37 (a) A description of the nature, content, extent and results of the ex-  
38 amination and any test that was conducted;

39 (b) The juvenile's capacity to understand the charges or allegations  
40 against the juvenile;

41 (c) The juvenile's capacity to understand the range and nature of pos-  
42 sible penalties that may be imposed in the proceedings;

43 (d) The juvenile's capacity to understand the adversarial nature of the  
44 legal process;

45 (e) The juvenile's capacity to disclose to counsel facts pertinent to  
46 the proceedings at issue;

47 (f) Whether the juvenile is able to display appropriate courtroom be-  
48 havior;

1 (g) Whether the juvenile is able to receive accurate impressions of the  
2 facts about which he or she is examined, is able to appreciate the mean-  
3 ing of an oath to tell the truth and has an understanding of the poten-  
4 tial consequences of not telling the truth;

5 (h) The examiner's opinion as to the competency of the juvenile as de-  
6 fined in subsection (2) of section 20-519A, Idaho Code.

7 (2) The weight to be given to each of the factors listed in subsection  
8 (1) of this section is discretionary with the court and a determination that  
9 the juvenile is or is not competent to proceed may be based on any one (1) or  
10 a combination of such factors, which shall be recited in the court's order  
11 regarding competency.

12 (3) If neither the prosecuting attorney nor counsel for the juvenile  
13 contests the findings of the report of the examiner or evaluation committee,  
14 the court may make the determination on the basis of such report. If a party  
15 contests the findings of such report, they shall have the right to cross-ex-  
16 amine the qualified psychiatrist or licensed psychologist who prepared and  
17 submitted the report and to offer evidence upon this issue. A finding of in-  
18 competency shall be based upon a preponderance of the evidence.

19 (4) If the court finds the juvenile is competent to proceed, the pro-  
20 ceedings shall continue without delay.

21 (5) If the court initially finds that the juvenile is incompetent and  
22 there is not a substantial probability that the juvenile will be restored to  
23 competency within six (6) months, the court may stay or dismiss the matter.  
24 In determining whether to stay or dismiss the matter, the court shall con-  
25 sider all relevant factors including, but not limited to, the seriousness of  
26 the alleged offense, resources available to the juvenile and any issues of  
27 public safety. Prior to a stay or dismissal of the matter, the court may con-  
28 vene a screening team consisting of representatives from the department of  
29 health and welfare, county probation, local school officials, and/or other  
30 agencies or persons designated by the court to develop a treatment plan for  
31 the juvenile. In developing such treatment plan, the recommendations con-  
32 tained in the competency examination shall be considered to ensure neces-  
33 sary services for the juvenile are put into place. Parents and guardians of  
34 the juvenile, if available, shall be included in the screening team and con-  
35 sulted with regard to the plan of treatment. If appropriate, the court may  
36 hold a hearing to determine whether proceedings under chapter 24, title 16,  
37 or chapter 3 or 4, title 66, Idaho Code, should be instituted. If such pro-  
38 ceedings are initiated, the juvenile court may retain jurisdiction over said  
39 proceedings.

40 (6) If the court determines that the juvenile is incompetent to pro-  
41 ceed, but may be restored to competency within six (6) months, the court  
42 shall order a plan of treatment to be developed by the department of health  
43 and welfare for the juvenile to undergo efforts at restoration to compe-  
44 tency. The court may:

45 (a) Convene a restoration treatment team to make recommendations on a  
46 plan of treatment;

47 (b) Order any agencies that have treated or had custody of the juve-  
48 nile to release any pertinent information or records to the department  
49 of health and welfare to be used in the development and implementation  
50 of the juvenile's restoration plan;

1 (c) Order the department of health and welfare, county probation,  
2 school officials and the department of juvenile corrections to release  
3 all pertinent information regarding the juvenile to the court, the de-  
4 partment of health and welfare and any restoration treatment team to be  
5 used in the development and implementation of the juvenile's restora-  
6 tion plan;

7 (d) Require the parents or guardians of the juvenile, and where ap-  
8 propriate require the juvenile, to allow information pertinent to the  
9 restoration treatment plan be released to the department of health and  
10 welfare, the court and any restoration treatment team.

11 (7) If the court determines that the juvenile is incompetent to pro-  
12 ceed, but may be restored to competency, the court may order a juvenile to  
13 participate in the competency restoration program as developed by the de-  
14 partment of health and welfare. The purpose of the treatment or training is  
15 the restoration of the juvenile's competency to proceed. In determining the  
16 type and location of the competency restoration program and in designating  
17 a restoration provider, the department of health and welfare shall identify  
18 the least restrictive alternative that is consistent with public safety and  
19 consider whether inpatient treatment, residential care or secure confine-  
20 ment is necessary for program participation.

21 (a) An inpatient or residential or secure detention facility is only  
22 appropriate if all available less restrictive alternatives in commu-  
23 nity settings which would offer an opportunity for improvement of the  
24 juvenile's condition are inappropriate. If the department of health  
25 and welfare's plan of restoration requires the juvenile be placed in an  
26 inpatient, residential or secure detention facility, the court shall  
27 hold a hearing on whether to order such placement unless the hearing is  
28 waived by the juvenile and the juvenile's parents or guardians. Juve-  
29 niles charged with only a status offense or multiple status offenses  
30 shall not be held in a secure confinement or detention facility for  
31 restoration purposes.

32 (b) The department of health and welfare is responsible for determining  
33 the competency restoration program and services. All costs associated  
34 with restoration services shall be the responsibility of the parents  
35 of the juvenile according to their ability to pay ~~based upon the slid-~~  
36 ~~ing fee scale established~~ pursuant to section ~~16-2433~~ 39-3140, Idaho  
37 Code. The financial obligation of the parents shall be determined after  
38 consideration of all available payment and funding sources including  
39 title XIX of the social security act, as amended, all available third  
40 party sources including funding available to the juvenile from other  
41 programs, grants or agencies and parent resources according to any or-  
42 der for child support under chapter 10, title 32, Idaho Code. Services  
43 shall not be conditioned upon transfer of custody of parental rights.

44 (8) If a juvenile is determined to be incompetent to proceed but may be  
45 restored to competency, the court shall retain jurisdiction of the juvenile  
46 for up to six (6) months. A restoration order issued pursuant to this section  
47 is valid for six (6) months from the date of the initial finding of incompe-  
48 tency or until one (1) of the following, whichever occurs first:

49 (a) The restoration program submits a report that the juvenile has be-  
50 come competent to proceed or that there is no substantial probability

1           that the juvenile will regain competency within the period the order is  
2           valid;

3           (b) The charges are dismissed; or

4           (c) The juvenile reaches twenty-one (21) years of age.

5           (9) The court may extend the restoration order beyond six (6) months  
6           upon a showing of good cause. If the juvenile reaches twenty-one (21) years  
7           of age, the matter shall be dismissed. If the court concludes that there is  
8           no substantial probability that the juvenile will regain competency within  
9           the period the order is valid, then the provisions of subsection (5) of this  
10          section shall apply.

11          SECTION 20. The rules contained in IDAPA 16.07.01, Idaho Department of  
12          Health and Welfare, relating to Behavioral Health Sliding Fee Schedules,  
13          shall be null, void, and of no force and effect on and after July 1, 2025.

14          SECTION 21. The rules contained in IDAPA 16.07.19, Idaho Department of  
15          Health and Welfare, relating to Peer Support Specialist and Family Support  
16          Partner Certification, shall be null, void, and of no force and effect on and  
17          after July 1, 2025.

18          SECTION 22. The rules contained in IDAPA 16.07.39, Idaho Department of  
19          Health and Welfare, relating to Designated Examiners and Dispositioners,  
20          shall be null, void, and of no force and effect on and after July 1, 2025.

21          SECTION 23. An emergency existing therefor, which emergency is hereby  
22          declared to exist, this act shall be in full force and effect on and after  
23          July 1, 2025.