

Dear Senators LODGE, Broadsword, Bock, and
Representatives MCGEACHIN, Bilbao, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Health and Welfare - Legal:

IDAPA 16.05.01 - Rules Pertaining To The Use and Disclosure of Department Records (Docket
No. 16-0501-1201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/23/2012. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/21/2012.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Ryan Bush

DATE: September 6, 2012

SUBJECT: Department of Health and Welfare - Legal

IDAPA 16.05.01 - Rules Pertaining To The Use and Disclosure of Department Records (Docket No. 16-0501-1201)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.05.01 - Rules Pertaining To The Use and Disclosure of Department Records. The Department states that the proposed rulemaking specifies and clarifies the information regarding child fatalities that the Department can disclose in compliance with the Child Abuse Prevention and Treatment Act (CAPTA). Specifically, the Department will disclose non-identifying information to the Statewide Child Fatality Review Team that were the result of abuse, neglect or abandonment. The Department may also disclose child-specific information to the public if it is in the child's best interest and has previously been published in the media, publicly disclosed in a judicial proceeding or clarifies actions taken by the Department in a specific case.

The Department states that negotiated rulemaking was not conducted because it was not deemed feasible and the changes are being made to bring the chapter into compliance with CAPTA. Public hearings are scheduled for September 18, 2012, at 1720 Westgate Dr., Suite D in Boise; September 19, 2012, at 1250 Ironwood Dr. in Coeur d'Alene; and September 20, 2012, at 1070 Hiline, Suite 230 in Pocatello. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be in compliance with CAPTA and within the authority granted to the Department in Sections 9-340B(7), 39-242, 56-202(b), 56-1003 and 56-1004, Idaho Code.

cc: Department of Health and Welfare - Legal
Tamara Prisock
Miren Unsworth

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-242, 39-5403, 56-221, 56-222, 56- 1003, and 56-1004, Idaho Code (Board authority); the Child Abuse Prevention and Treatment Act (CAPTA) (42 USC 5101, et seq.); and Section 9-340B(7), Idaho Code, (from Senate Bill 1255a(2) (2012)).

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

| Tuesday, September 18, 2012 6:00 p.m. (MDT Time) | Wednesday, September 19, 2012 6:00 p.m. (PDT Time) | Thursday, September 20, 2012 6:00 p.m. (MDT Time) |
|---|---|--|
| 1720 Westgate Dr., Suite D Boise, ID 83704 | 1250 Ironwood Drive Coeur d'Alene, ID 83814 | 1070 Hiline, Suite 230 Pocatello, ID 83201 |

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Disclosure of information regarding child fatalities is required by the Child Abuse Prevention and Treatment Act (CAPTA) under 42 USC 5106a(b)(2)(B)(x). In accordance with CAPTA, this chapter is being amended to specify and clarify the information regarding child fatalities that the Department can disclose.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not deemed feasible as these rule changes are being made to bring this chapter into alignment with the Child Abuse Prevention and Treatment Act (CAPTA) (P.L. 111-320).

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Miren Unsworth at (208) 334-5925.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 6th day of August, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0501-1201

210. CHILD PROTECTION.

Unless allowed by these rules or other provision of law, the Department will disclose information from child protection records in its possession upon a court order obtained in compliance with Subsection 075.02 of these rules. Disclosure of Department records under the Child Protective Act is governed by Section 16-1629(6), Idaho Code. Court records of Child Protective Act proceedings are governed by Section 16-1626, Idaho Code. Pertinent federal laws and regulations include 42 USC 5106 and 45 CFR 134.20. Information regarding child fatalities or near fatalities ~~is required to~~ may be made public ~~by 42 USC 5106a(b)(2)(A)(x).~~ (4-2-08)

01. Child Fatalities. In accordance with 42 USC 5106a(b)(2)(B)(x), the Department will disclose non-identifying summary information to the Statewide Child Fatality Review Team, established by the Governor's Task Force on Children at Risk, regarding child fatalities that were determined to be the result of abuse, neglect, or abandonment.

02. Public Disclosure. The Department has the discretion to disclose child-specific information under this rule when the disclosure is not in conflict with the child's best interests and one (1) or more of the following applies:

a. Identifying information related to child-specific abuse, neglect, or abandonment has been previously published or broadcast through the media;

b. All or part of the child-specific information has been publicly disclosed in a judicial proceeding; or

c. The disclosure of information clarifies actions taken by the Department on a specific case.