

Dear Senators LODGE, Broadsword, Bock, and  
Representatives BLOCK, Hartgen, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Department of Health and Welfare - Criminal History and Background Checks:

IDAPA 16.05.06 - Rules Pertaining To The Criminal History & Background Checks (Fee Rule)  
(Docket No. 16-0506-1201).

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 07/23/2012. 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 08/20/2012.

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

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*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Commerce & Human Resources Committee  
**FROM:** Legislative Research Analyst - Ryan Bush  
**DATE:** July 03, 2012  
**SUBJECT:** Department of Health and Welfare - Criminal History and Background Checks

IDAPA 16.05.06 - Rules Pertaining To The Criminal History & Background Checks (Fee Rule) (Docket No. 16-0506-1201)

The Department of Health and Welfare submits notice of temporary and proposed rulemaking at IDAPA 16.05.06 - Rules Pertaining To The Criminal History & Background Checks (Fee Rule). The Department states that the proposed rule is to update the cost of the Department's criminal history and background check due to an increase in costs for services provided by the Idaho State Police (ISP). Section 56-1004A, Idaho Code, states that applicants are responsible for the cost of a background check except where otherwise provided by department rules. ISP increased its costs charged to the Department by fifteen dollars (\$15). This proposed rulemaking increases the fee paid by individuals for criminal history and background checks from fifty-five dollars (\$55) to seventy dollars (\$70) to account for ISP's increase.

The Department states that negotiated rulemaking was not conducted because the proposed rule change was necessary to meet statutory requirements. The Department further states that because it is required by rule to pay for 2,400 background checks annually, ISP's increase in costs charged to the Department is estimated to result in an impact to the state general fund of \$36,000.

The proposed rule appears to be within the authority granted to the Department in Sections 56-202(b), 56-204A and 56-1004A, Idaho Code.

cc: Department of Health and Welfare - Criminal History and Background Checks  
Tamara Prisock  
Fernando Castro

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS**

#### **DOCKET NO. 16-0506-1201 (FEE RULE)**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2012.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2012.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules are being amended to update the cost of the Department's criminal history and background check. The fee amount is based on increased costs for services provided by the Idaho State Police (ISP). ISP increased their costs to the Department by \$15 per check. Section 56-1004A, Idaho Code, states that applicants are responsible for the cost of these checks unless otherwise provided by Department rules. The total fee amount will be phased in over a period of time. The Department will only increase its costs when ISP increases its fees.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

In order to protect children and vulnerable adults, the Department requires certain providers and others to pass a criminal history and background check. Statutes require an applicant for a criminal history check to cover the cost of the check which was increased for services provided by ISP.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The fee amount for a Department fingerprint-based criminal history and background check is being increased by \$15. The fee increase for the temporary rule is needed to avoid immediate danger to children and vulnerable adults the Department is responsible for protecting.

**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:

Based on an estimate of 24,000 background checks, the annual amount of additional costs to the Department for State Fiscal Year (SFY) 2013 will be \$360,000. Of that amount, approximately \$36,000 may be paid with state general fund money.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Department is required under Section 56-1004A, Idaho Code, to have an applicant cover the cost of a criminal history check which is being increased for ISP services. It was not feasible to conduct negotiated rulemaking because this action was necessary to meet statutory requirements.

**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 temporary and proposed rule, contact Fernando Castro, at (208) 332-7999.

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 July 25, 2012.

DATED this 10th day of May, 2012.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
phone: (208) 334-5564  
fax: (208) 334-6558  
e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE  
FOR FEE DOCKET NO. 16-0506-1201**

**050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS.**

The fee for a Department fingerprint-based criminal history and background check is ~~fifty five~~ seventy dollars (~~\$5570~~) for an individual. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. ~~(4-9-09)~~(7-1-12)T

**COST/BENEFIT ANALYSIS FORM**  
Department of Health and Welfare  
Administrative Procedures Section (APS)

**Docket Number: 16-0506-1201**

**Agency Contact:** Steve Bellomy  
**Phone:** (208) 334-0609

**Rules Specialist:** Bev Barr  
**Phone:** (208) 334-5736

**Date Analysis Completed:** 04/09/12

**IDAPA Chapter Number and Title:** IDAPA 16.05.06, "Criminal History and Background Checks"

**Fee Rule Status:**         **Proposed**  **Temporary**        **Effective date:** **July 1, 2012**

**Instructions:**

Section 67-5223(3), Idaho Code, requires that all proposed rules in which a fee or charge is imposed or increased must include a statement of economic impact (cost/benefit analysis) of the rule change at the time the rule text is submitted for publication. This analysis needs to include an estimated cost to the agency to implement the rule and an estimated cost to be borne by citizens, or the private sector, or both.

**Cost/Benefit Analysis For This Rule Change:**

Costs to the Department have been increased by the Idaho State Police (ISP) for services they perform while doing a criminal history background check (CHC). This increase will be paid for by providers and applicants required to have a Department criminal history check. The Department estimates 24, 000 criminal history and background checks are performed annually. Of those, the Department is required to pay this fee increase for employees, foster care applicants, adoptions, and volunteers which represents about 2,400 background checks.

The Department's portion of this fee increase is estimated to be \$36,000. A portion of this amount may be paid with eligible federal matching monies, but the remainder will be paid with state general funds.

Providers and applicants will be required to pay an additional \$15 per each CHC.