

Dear Senators HEIDER, Nuxoll, Bock, and  
Representatives WOOD, Perry, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Health and Welfare - Child and Family Services:  
IDAPA 16.06.01 - Rules Pertaining To Child & Family Services (Fee Rule) (Docket No. 16-0601-1302).

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 10/15/2013. 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 11/12/2013.

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 Health & Welfare Committee  
**FROM:** Senior Legislative Research Analyst - Ryan Bush  
**DATE:** September 25, 2013  
**SUBJECT:** Department of Health and Welfare - Child and Family Services

IDAPA 16.06.01 - Rules Pertaining To Child & Family Services (Fee Rule) (Docket No. 16-0601-1302)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.06.01 - Rules Pertaining To Child & Family Services (Fee Rule). The Department states that this rulemaking establishes a process for individuals to request confidential information that is on the Child Protection Central Registry only if the request is accompanied by signed written consent from the individual whose name is being checked. This rule also imposes a twenty dollar fee for such requests. This rulemaking also changes the means of sending notices of pending proceedings under the Indian Child Welfare Act (ICWA) from certified mail to registered mail to coincide with federal regulations

The Department states that negotiated rulemaking was not conducted because it was not feasible and because this rule change aligns the rules with public records requirements and current practice. Pursuant to Section 67-5223, Idaho Code, the Department submitted a statement of economic impact (cost/benefit analysis) with this rule change. The Department expects to collect \$42,000 that will cover costs associated with operating expenses but anticipates no impact to the general fund.

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

cc: Department of Health and Welfare - Child and Family Services  
Tamara Prisock  
Miren Unsworth

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

**Docket Number: 16-0601-1302**

**Agency Contact: Rob Luce**  
**Phone: 334-5680**

**Rules Specialist: Bev Barr**  
**Phone: 334-5736**

**Date Analysis Completed:**

**IDAPA Chapter Number and Title:** IDAPA 16.06.01, "Child and Family Services"

**Fee Rule Status:**       **Proposed**       **Temporary**      **Effective date:** **Sine Die 2014**

**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:**

Estimated Costs to the Agency:

- Contracted Personnel:            \$37,200
- Operating Expenses:            \$ 4,800

Estimated Costs Borne by Citizens, Non-Profit Organizations, and the Public and Private Sectors:

- This rule change will give persons and entities the ability to check the Child Protection Central Registry ("Central Registry") as part of a background check if they so desire. The fee for checking the Central Registry and documenting the results therein will be \$20.

Estimated Benefits Include:

- It is estimated that 2,100 additional checks of the Central Registry will be completed annually on persons working with children. These additional checks will increase safety for vulnerable children and adults. Current rule does not address these types of checks of the Child Protection Central Registry absent a Department Criminal History and Background Check under IDAPA 16.05.06.
- The proposed fee amount will cover the costs of checking the Central Registry and documenting the results therein without the need for additional FTE or general funds.

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

### **16.06.01 - CHILD AND FAMILY SERVICES**

#### **DOCKET NO. 16-0601-1302 (FEE RULE)**

#### **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 Section 56-202(b) and 56-204A, 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 September 18, 2013.

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:

The Department is establishing a process for individuals to obtain confidential information that is on the child protection central registry. This information will only be released with an individual's written consent to obtain such confidential information. The Department is not mandating that individuals and other entities check the child protection central registry as a precondition of employment or non-department licensure. This change aligns IDAPA 16.06.01 with rules pertaining to the public records act and with current practice. The Department is adding a fee of \$20 for a name-based Child Protection Central Registry Check to cover costs. Updates are being made to the mailing process to meet federal regulations for notifications to the ICWA designated agent for a child's tribe.

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

A fee of \$20 is being added for a name-based Child Protection Central Registry check.

**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:

It is estimated that 2,100 additional central registry checks will be completed annually. The Department will collect receipts in a projected amount of \$42,000. The receipted amount will cover costs associated with the operating expenses without a need for additional funds. There is no anticipated fiscal impact to the state general fund or need for federal funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Department is establishing a process for individuals to obtain confidential information and determined it was not feasible to negotiate this rulemaking. The Department is not mandating that these checks be done and is aligning these rules with public records requirements and current practice.

**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) 334-6925.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 1st day of August, 2013.

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 PROPOSED TEXT OF FEE DOCKET NO. 16-0601-1302

**051. NOTICE REQUIREMENTS FOR ICWA.**

**01. Notice of Pending Proceedings -- Who Must be Notified.** When there is reason to believe that a child is an Indian child, the initial and any subsequent Notice of Pending Proceedings must be sent to the Indian child's parent(s), custodian(s), and tribe. Notices of Pending Proceedings must be sent to the ICWA Designated Agent for the child's tribe via ~~Certified Mail~~ Registered Mail, Return Receipt Requested. All Notices of Pending Proceedings must be received by the child's parent(s), Indian custodian(s) and tribe at least 10 (ten) days before the proceeding is scheduled to occur. Returned receipts are to be kept in the child's file and made available for review by the court. (3-29-12)( )

**02. Rights Under a Notice of Pending Proceedings.** Notices of Pending Proceedings must also include notice of the tribe's right to intervene; their right to twenty (20) additional days to prepare for the proceedings; the right to appointment of counsel if the parent(s) or Indian custodian(s) are indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-29-12)

**03. Notice of Pending Proceedings--When Identity or Location of Parent(s), Indian Custodian(s), or Tribe is Unknown.** If the identity or location of the parent(s) or Indian custodian(s) or the tribe is unknown, the Notice of Pending Proceedings must be sent to the Secretary of the Interior by certified mail with a return receipt requested at the following address: Department of the Interior, Bureau of Indian Services, Division of Human Services, Code 450, Mail Stop, 1849 C Street N.W., Washington, D.C. 20240. (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY AND REQUESTS TO CHECK THE REGISTRY.**

**01. Confidentiality of Child Protection Central Registry.** The names on the Child Protection Central Registry are confidential and may only be released with the written consent of the individual on whom a ~~Department~~ criminal history and background check is being conducted, ~~in accordance with IDAPA 16.05.06, "Criminal History and Background Checks,"~~ unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, neglect, or abandonment. (5-8-09)( )

**02. Child Protection Central Registry Check Fee.** The fee for requesting a name-based check of the Child Protection Central Registry is twenty (\$20) dollars. The request must be accompanied with a signed written consent by the individual whose name is being checked. ( )