

DRAFT

DRRCB033

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature First Regular Session - 2017

This bill draft contains confidential and privileged information exempt from disclosure under Section 74-109(1), Idaho Code. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning the Legislative Services Office at (208) 334-2475.

1 AN ACT
2 RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1629, IDAHO CODE,
3 TO PROVIDE THAT A PARENT WHOSE CHILD IS TAKEN INTO THE CUSTODY OF THE DE-
4 PARTMENT SHALL BE MADE AWARE OF CERTAIN RIGHTS AND RESPONSIBILITIES AND
5 TO REVISE A PROVISION REGARDING THE PLACEMENT PRIORITY OF A CHILD.

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

7 SECTION 1. That Section 16-1629, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 16-1629. POWERS AND DUTIES OF THE DEPARTMENT. The department, working
10 in conjunction with the court and other public and private agencies and per-
11 sons, shall have the primary responsibility to implement the purpose of this
12 chapter. To this end, the department is empowered and shall have the duty to
13 do all things reasonably necessary to carry out the purpose of this chapter,
14 including, but not limited to, the following:

15 (1) The department shall administer treatment programs for the protec-
16 tion and care of neglected, abused and abandoned children, and in so doing
17 may place in foster care, shelter care, or other diagnostic, treatment, or
18 care centers or facilities, children of whom it has been given custody. The
19 department is to be governed by the standards found in chapter 12, title 39,
20 Idaho Code.

21 (2) At the time a child is taken into custody of the department pursuant
22 to subsection (1) of this section and at the adjudicatory hearing conducted
23 pursuant to section 16-1619, Idaho Code, the department shall provide par-
24 ents whose child was taken into custody of the department with a brochure
25 describing the rights and responsibilities of a parent whose child is taken
26 into the custody of the department.

27 (3) On December 1, the department shall make an annual statistical
28 report to the governor covering the preceding fiscal year showing the num-
29 ber and status of persons in its custody and including such other data as
30 will provide sufficient facts for sound planning in the conservation of
31 children and youth. All officials and employees of the state and of every
32 county and city shall furnish the department, upon request, such information
33 within their knowledge and control as the department deems necessary. Lo-
34 cal agencies shall report in such uniform format as may be required by the
35 department.

36 (34) The department shall be required to maintain a central registry
37 for the reporting of child neglect, abuse and abandonment information.
38 Provided however, that the department shall not retain any information for
39 this purpose relating to a child, or parent of a child, abandoned pursuant to
40 chapter 82, title 39, Idaho Code.

41 (45) The department shall make periodic evaluation of all persons in
42 its custody or under its protective supervision for the purpose of determin-

1 ing whether existing orders and dispositions in individual cases shall be
2 modified or continued in force. Evaluations may be made as frequently as the
3 department considers desirable and shall be made with respect to every per-
4 son at intervals not exceeding six (6) months. Reports of evaluation made
5 pursuant to this section shall be filed with the court that has jurisdiction.
6 Reports of evaluation shall be provided to persons having full or partial le-
7 gal or physical custody of a child. Failure of the department to evaluate a
8 person or to reevaluate him within six (6) months of a previous examination
9 shall not of itself entitle the person to a change in disposition but shall
10 entitle him, his parent, guardian or custodian or his counsel to petition the
11 court pursuant to section 16-1622, Idaho Code.

12 (56) In a consultive capacity, the department shall assist communities
13 in the development of constructive programs for the protection, prevention
14 and care of children and youth.

15 (67) The department shall keep written records of investigations,
16 evaluations, prognoses and all orders concerning disposition or treatment
17 of every person over whom it has legal custody or under its protective su-
18 pervision. Department records shall be subject to disclosure according to
19 chapter 1, title 74, Idaho Code, unless otherwise ordered by the court, the
20 person consents to the disclosure, or disclosure is necessary for the deliv-
21 ery of services to the person. Notwithstanding the provisions restricting
22 disclosure or the exemptions from disclosure provided in chapter 1, title
23 74, Idaho Code, all records pertaining to investigations, the rehabilita-
24 tion of youth, the protection of children, evaluation, treatment and/or
25 disposition records pertaining to the statutory responsibilities of the de-
26 partment shall be disclosed to any duly elected state official carrying out
27 his official functions.

28 (78) The department shall establish appropriate administrative proce-
29 dures for the processing of complaints of child neglect, abuse and abandon-
30 ment received and for the implementation of the protection, treatment and
31 care of children formally or informally placed in the custody of the depart-
32 ment or under its protective supervision under this chapter including, but
33 not limited to:

34 (a) Department employees whose job duties are related to the child pro-
35 tective services system under this chapter shall first be trained as to
36 their obligations under this chapter regarding the protection of chil-
37 dren whose health and safety may be endangered. The curriculum shall
38 include information regarding their legal duties, how to conduct their
39 work in conformity with the requirements of this chapter, information
40 regarding applicable federal and state laws with regard to the rights
41 of the child, parent and others who may be under investigation under the
42 child protective services system, and the applicable legal and consti-
43 tutional parameters within which they are to conduct their work.

44 (b) Department employees whose job duties are related to the child pro-
45 tective services system shall advise the individual of the complaints
46 or allegations made against the individual at the time of the initial
47 contact, consistent with protecting the identity of the referent.

48 (89) The department having been granted legal custody of a child
49 shall have the right to determine where and with whom the child shall live,
50 provided that the child shall not be placed outside the state without the

1 court's consent. The court shall retain jurisdiction over the child, which
2 jurisdiction shall be entered on any order or petition granting legal cus-
3 tody to the department, and the court shall have jurisdiction over all
4 matters relating to the child. The department shall not place the child in
5 the home from which the court ordered the child removed without first ob-
6 taining the approval of the court. Notwithstanding the provisions of this
7 subsection, all other determinations relating to where and with whom the
8 child shall live shall be subject to judicial review by the court and, when
9 contested by any party, judicial approval.

10 (910) The department shall give to the court any information concerning
11 the child that the court may at any time require, but in any event shall re-
12 port the progress of the child under its custody or under its protective su-
13 pervision at intervals of not to exceed six (6) months. The department shall
14 file with the court at least five (5) days prior to the permanency hearing ei-
15 ther under section 16-1622, Idaho Code, or, in the case of a finding of aggra-
16 vated circumstances, section 16-1620, Idaho Code, the permanency plan and
17 recommendations of the department.

18 (101) The department shall establish appropriate administrative proce-
19 dures for the conduct of administrative reviews and hearings as required by
20 federal statute for all children committed to the department and placed in
21 out of the home care.

22 (112) At any time the department is considering a placement pursuant
23 to this chapter, the department shall make a reasonable effort to place the
24 child in the least restrictive environment to the child and in so doing shall
25 consider, consistent with the best interest and special needs of the child,
26 placement priority of the child in the following order:

27 (a) A fit and willing relative.

28 (b) A fit and willing nonrelative person or persons with a significant
29 relationship with the child including, but not limited to, a fit and
30 willing nonrelative and-

31 ~~(c) Foster parents and other persons licensed in accordance with chap-~~
32 ~~ter 12, title 39, Idaho Code, with a significant relationship with the~~
33 ~~child.~~

34 (d) Foster parents and other persons licensed in accordance with chap-
35 ter 12, title 39, Idaho Code.

36 (123) If the caseworker assigned to a foster care case recommends re-
37 moving the child from a foster home in which the child has been placed for
38 sixty (60) or more days, for placement in another foster home, then the case
39 worker's supervisor shall conduct a review of the foster care case and must
40 approve such recommendation before a change in foster home placement occurs.
41 The supervisor shall consider the best interests and special needs of the
42 child, including:

43 (a) The clearly stated reasons for the recommended change in placement;

44 (b) The number of times the child's placement has been changed since re-
45 moval from their home and the reasons for each change;

46 (c) Whether the child will change schools as a result of the change in
47 placement; and

48 (d) Whether the change in placement will separate or reunite siblings
49 or affect sibling visitation.

DRAFT

DRRCB033

1 (134) If the supervisor determines that the recommended change in fos-
2 ter care placement is in the best interests of the child, then the department
3 may change the placement of the child; provided that, the department shall
4 give the foster parents written notice of the planned change at least seven
5 (7) days before the change in placement.

6 (145) If the caseworker determines that there is abuse or neglect or a
7 substantial risk of abuse or neglect in the foster home, then the department
8 may change the placement of the child without a supervisor's review; pro-
9 vided that, the department shall give the foster parents written notice of
10 the unplanned change within seven (7) days after the change in placement.

11 (156) In its written notice of a planned or unplanned change required
12 under this section, the department shall clearly state the reasons for the
13 change in placement of the child.