

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 556, As Amended in the Senate

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO JUVENILE PROCEEDINGS; AMENDING SECTION 16-1506, IDAHO CODE, TO
2 ESTABLISH ADDITIONAL PROVISIONS REGARDING PROCEEDINGS ON ADOPTION;
3 AMENDING SECTION 16-1619, IDAHO CODE, TO PROVIDE FOR JUDICIAL APPROVAL;
4 AMENDING SECTION 16-1620, IDAHO CODE, TO PROVIDE THAT THE PERMANENCY
5 PLAN SHALL INCLUDE CERTAIN INFORMATION; AMENDING SECTION 16-1621,
6 IDAHO CODE, TO PROVIDE THAT THE CONCURRENT PLAN SHALL INCLUDE CERTAIN
7 INFORMATION; AMENDING SECTION 16-1622, IDAHO CODE, TO PROVIDE THAT THE
8 PERMANENCY PLAN SHALL INCLUDE CERTAIN INFORMATION; AMENDING SECTION
9 16-1629, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE POWERS AND DU-
10 TIES OF THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR JUDICIAL
11 APPROVAL, TO ESTABLISH ADDITIONAL PROVISIONS REGARDING THE PLACEMENT
12 PRIORITY OF CERTAIN CHILDREN, TO PROVIDE FOR A REVIEW PROCESS WHEN A
13 CHANGE IN FOSTER HOME PLACEMENT IS RECOMMENDED AND TO PROVIDE NOTICE
14 REQUIREMENTS; AND AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE AD-
15 DITION OF A NEW SECTION 16-1644, IDAHO CODE, TO PROVIDE AN EXEMPTION.
16

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

18 SECTION 1. That Section 16-1506, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child
21 shall be commenced by the filing of a petition together with a copy thereof.
22 The petition shall be initiated by the person or persons proposing to adopt
23 the child and shall be filed with the district court of the county in which
24 said person or persons reside. If the adoption arises from a child protec-
25 tive act case, the petition shall be filed in the court having jurisdiction
26 over the child protective act case unless that court relinquishes jurisdic-
27 tion over the adoption proceeding. The petitioners shall have resided and
28 maintained a dwelling within the state of Idaho for at least six (6) consec-
29 utive months prior to the filing of a petition. The petition shall set forth
30 the name and address of the petitioner or petitioners, the name of the child
31 proposed to be adopted and the name by which the person to be adopted shall be
32 known if and when adopted, the degree of relationship of the child, if any,
33 to the petitioner or petitioners and the names of any person or agency whose
34 consent to said adoption is necessary. At the time fixed for hearing such
35 petition the person adopting a child, and the child adopted, and the spouse
36 of the petitioner if a natural parent of the child, must appear before the
37 court of the county wherein the petition was filed. The petitioner shall at
38 such time execute an agreement to the effect that the child shall be adopted
39 and treated in all respects as his own lawful child should be treated.

40 (2) If the adoption arises from a child protective act case, then, in
41 addition to the petition filed pursuant to subsection (1) of this section,
42 the department of health and welfare shall file the permanency plan prepared

1 pursuant to section 16-1620 or 16-1622, Idaho Code, associated with the
2 child protective act case. If the court determines that the person proposing
3 to adopt the child is not the proposed adoptive parent named in the perma-
4 neny plan, then the judge shall stay the proceeding pending the department
5 preparing and filing an amended permanency plan pursuant to section 16-1620
6 or 16-1622, Idaho Code, and the approval of the amended permanency plan by
7 the judge presiding over the child protective act proceeding.

8 (3) Any person or persons whose consent is required shall execute such
9 consent in writing, in a form consistent with the provisions of section
10 16-2005(4), Idaho Code, which consent being filed in the court where the
11 application is made, shall be deemed a sufficient appearance on the part of
12 such person or persons. If any adoptive parent, or a person not a minor being
13 adopted by a resident adult under the provisions of section 16-1501, Idaho
14 Code, is a member of the armed services and is unable to attend the hearing,
15 his appearance and testimony shall be received by means of deposition, which
16 shall be filed in the court at the time of the hearing.

17 (34) Prior to the placement for adoption of any child in the home of
18 prospective adoptive parents, it shall be required that a thorough social
19 investigation of the prospective adoptive family and all of its members,
20 consistent with the rules regarding such investigations promulgated by the
21 department of health and welfare, shall be completed and that a positive
22 recommendation for adoptive placement shall have been made. The social in-
23 vestigation may be performed by any individual who meets the requirements of
24 the law. A copy of the study must be submitted to the department and the de-
25 partment may impose a reasonable fee, not to exceed fifty dollars (\$50.00),
26 for oversight of such privately conducted studies. If the prospective adop-
27 tive parent has a disability as defined in this chapter, the prospective
28 adoptive parent shall have the right, as a part of the social study, to pro-
29 vide information regarding the manner in which the use of adaptive equipment
30 or supportive services will enable the parent to carry out the responsibili-
31 ties of parenting the child. The person performing the social investigation
32 shall advise the prospective adoptive parent of such right and shall con-
33 sider all such information in any findings or recommendations. The social
34 investigation of any prospective adoptive parent with a disability shall
35 be conducted by, or with the assistance of, an individual with expertise in
36 the use of such equipment and services. Nothing in this chapter shall be
37 construed to create any new or additional obligation on state or local gov-
38 ernments to purchase or provide adaptive equipment or supportive services
39 for parents with disabilities. In those instances where the prospective
40 adoptive parent is married to the birth parent or is the grandparent of the
41 child to be adopted, such social investigation shall be completed with re-
42 gard to the prospective adoptive parent only upon order of the court. In
43 exigent circumstances where the prospective adoptive parents are determined
44 by the court to have been unable to complete a social investigation of the
45 family with a positive recommendation prior to the time the child is placed
46 in the home, the child shall remain in the home unless the court determines
47 the best interests of the child are served by other placement. If exigent
48 circumstances exist, a social investigation shall be initiated within five
49 (5) days of placement. Once initiated, all studies shall be completed within
50 sixty (60) days. Upon the filing of a petition to adopt a minor child by a

1 person unrelated to the child or unmarried to a natural parent of the child
2 and at the discretion of the court upon the filing of any other petition for
3 adoption, a copy of such petition, together with a statement containing the
4 full names and permanent addresses of the child and the petitioners, shall
5 be served by the court receiving the petition within five (5) days on the di-
6 rector of the department of health and welfare by registered mail or personal
7 service. If no private investigation is conducted, it shall then be the duty
8 of the said director, through the personnel of the department or through
9 such qualified child-placing children's adoption agency incorporated under
10 chapter 3, title 30, Idaho Code, as the director may designate, to verify the
11 allegations of the petition, and as soon as possible not exceeding thirty
12 (30) days after service of the petition on the director to make a thorough
13 investigation of the matter to include in all cases information as to the
14 alleged date and place of birth and as to parentage of the child to be adopted
15 as well as the source of all such information and report his findings in writ-
16 ing to the court. The investigative report shall include reasonably known
17 or available medical and genetic information regarding both natural parents
18 and sources of such information as well as reasonably known or available
19 providers of medical care and services to the natural parents. A copy of all
20 medical and genetic information compiled in the investigation shall be made
21 available to the adopting family by the department or other investigating
22 children's adoption agency prior to entry of the final order of adoption.
23 The petition, statement and all other papers, records or files relating to
24 the adoption, including the preplacement investigation and recommendation,
25 shall be returned to the court with the investigative report. The department
26 of health and welfare or other children's adoption agency may require the
27 petitioner to pay all or any part of the costs of the investigation. If the
28 report disapproves of the adoption of the child, motion may be made to the
29 court to dismiss the petition.

30 (45) Proceedings for termination of parent-child relationship in ac-
31 cordance with chapter 20, title 16, Idaho Code, and proceedings for adop-
32 tion may be consolidated and determined at one (1) hearing provided that all
33 of the requirements of this chapter as well as chapter 20, title 16, Idaho
34 Code, be fully complied with. Nothing in either chapter shall be construed
35 as limiting the initiation of any petition for approval of a verified fi-
36 nancial plan for adoption expenses pursuant to section 18-1511, Idaho Code,
37 prior to the birth of the child which is the subject of any adoption proceed-
38 ing. In all disputed matters under this chapter or chapter 20, title 16,
39 Idaho Code, the paramount criterion for consideration and determination by
40 the court shall be the best interests of the child.

41 (56) Proceedings for the adoption of an adult shall be as provided in
42 subsection (1) of this section and any consents required shall be executed
43 as provided in subsection (23) of this section. Upon a finding by the court
44 that the consent of all persons for whom consent is required has been given
45 and that the requirements of section 16-1501, Idaho Code, have been proven
46 to the satisfaction of the court, the court shall enter an order granting the
47 adoption. In cases where the adult proposed to be adopted is incapacitated
48 or disabled, the court may require that an investigation be performed. The
49 form and extent of the investigation to be undertaken may be as provided in
50 subsection (34) of this section, or as otherwise ordered by the court. If an

1 investigation is performed, the court must review and approve the findings
2 of the investigation before issuing an order approving the adoption.

3 SECTION 2. That Section 16-1619, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDA-
6 TION. (1) When a petition has been filed, the court shall set an adjudicatory
7 hearing to be held no later than thirty (30) days after the filing of the
8 petition.

9 (2) A pretrial conference shall be held outside the presence of the
10 court within three (3) to five (5) days before the adjudicatory hearing.
11 Investigative reports required under section 16-1616, Idaho Code, shall be
12 delivered to the court with copies to each of the parents and other legal cus-
13 todians, guardian ad litem and attorney for the child prior to the pretrial
14 conference.

15 (3) At the adjudicatory hearing, parents or guardians with disabil-
16 ities shall have the right to introduce admissible evidence regarding how
17 use of adaptive equipment or supportive services may enable the parent or
18 guardian to carry out the responsibilities of parenting the child by ad-
19 dressing the reason for the removal of the child.

20 (4) If a preponderance of the evidence at the adjudicatory hearing
21 shows that the child comes within the court's jurisdiction under this chap-
22 ter upon the grounds set forth in section 16-1603, Idaho Code, the court
23 shall so decree and in its decree shall make a finding on the record of the
24 facts and conclusions of law upon which it exercises jurisdiction over the
25 child.

26 (5) Upon entering its decree the court shall consider any information
27 relevant to the disposition of the child but in any event shall:

28 (a) Place the child under the protective supervision of the department
29 for an indeterminate period not to exceed the child's eighteenth birth-
30 day; or

31 (b) Vest legal custody in the department or other authorized agency
32 subject to residual parental rights and subject to full judicial review
33 by the court and, when contested by any party, judicial approval of all
34 matters relating to the custody of the child by the department or other
35 authorized agency.

36 (6) If the court vests legal custody in the department or other autho-
37 rized agency, the court shall make detailed written findings based on facts
38 in the record, that, in addition to the findings required in subsection (4)
39 of this section, continuation of residence in the home would be contrary to
40 the welfare of the child and that vesting legal custody with the department
41 or other authorized agency would be in the best interests of the child. In
42 addition the court shall make detailed written findings based on facts in the
43 record as to whether the department made reasonable efforts to prevent the
44 placement of the child in foster care, including findings, when appropriate,
45 that:

46 (a) Reasonable efforts were made but were not successful in eliminating
47 the need for foster care placement of the child;

48 (b) The department made reasonable efforts to prevent removal but was
49 not able to safely provide preventive services;

1 (c) Reasonable efforts to temporarily place the child with related per-
2 sons were made but were not successful; or

3 (d) Reasonable efforts to reunify the child with one (1) or both parents
4 were not required because aggravated circumstances were present. If
5 aggravated circumstances are found, a permanency hearing for the child
6 shall be held within thirty (30) days of the determination of aggravated
7 circumstances.

8 (7) A decree vesting legal custody in the department shall be binding
9 upon the department and may continue until the child's eighteenth birthday.

10 (8) A decree vesting legal custody in an authorized agency other than
11 the department shall be for a period of time not to exceed the child's eigh-
12 teenth birthday, and on such other terms as the court shall state in its de-
13 cree to be in the best interests of the child and which the court finds to be
14 acceptable to such authorized agency.

15 (9) In order to preserve the unity of the family system and to ensure the
16 best interests of the child whether issuing an order of protective supervi-
17 sion or an order of legal custody, the court may consider extending or initi-
18 ating a protective order as part of the decree. The protective order shall be
19 determined as in the best interests of the child and upon a showing of contin-
20 uing danger to the child. The conditions and terms of the protective order
21 shall be clearly stated in the decree.

22 (10) If the court does not find that the child comes within the jurisdic-
23 tion of this chapter pursuant to subsection (4) of this section it shall dis-
24 miss the petition.

25 SECTION 3. That Section 16-1620, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 16-1620. FINDING OF AGGRAVATED CIRCUMSTANCES -- PERMANENCY PLAN --
28 HEARING. (1) After a judicial determination that reasonable efforts to re-
29 turn the child to his home are not required because aggravated circumstances
30 were found to be present, the court shall hold a permanency hearing within
31 thirty (30) days after the finding. The department shall prepare a per-
32 manency plan and file the permanency plan with the court at least five (5)
33 days prior to the permanency hearing. If the permanency plan has a goal of
34 termination of parental rights and adoption, the department shall file the
35 petition to terminate as required in section 16-1624(2), Idaho Code. Copies
36 of the permanency plan shall be delivered to the parents and other legal
37 guardians, prosecuting attorney or deputy attorney general, the guardian ad
38 litem and attorney for the child.

39 (2) The permanency plan shall have a permanency goal of termination
40 of parental rights and adoption, guardianship or another planned permanent
41 living arrangement and shall set forth the reasonable efforts necessary to
42 finalize the permanency goal.

43 (3) The permanency plan shall also:

44 (a) Identify the services to be provided to the child, including ser-
45 vices to identify and meet any special educational, emotional, physical
46 or developmental needs the child may have, to assist the child in ad-
47 justing to the placement or to ensure the stability of the placement;

1 (b) Address all options for permanent placement of the child, including
 2 consideration of options for in-state and out-of-state placement of the
 3 child;

4 (c) Address the advantages and disadvantages of each option and include
 5 a recommendation as to which option is in the child's best interest;

6 (d) Specifically identify the actions necessary to implement the rec-
 7 ommended option;

8 (e) Specifically set forth a schedule for accomplishing the actions
 9 necessary to implement the permanency goal;

10 (f) Consider the options for maintaining the child's connection to the
 11 community, including individuals with a significant relationship to
 12 the child, and organizations or community activities with which the
 13 child has a significant connection; and

14 (g) In the case of a child who has attained the age of sixteen (16)
 15 years, identify the services needed to assist the child to make the
 16 transition from foster care to independent living; and

17 (h) Identify the prospective adoptive parents, if known; if the
 18 prospective adoptive parents are not known, the department shall amend
 19 the plan to name the proposed adoptive parents as soon as such persons
 20 become known.

21 (4) The court shall hold a permanency hearing to determine whether the
 22 best interest of the child is served by adopting, rejecting or modifying the
 23 permanency plan proposed by the department.

24 (5) Notice of the permanency hearing shall be provided to the parents
 25 and other legal guardians, prosecuting attorney or deputy attorney general,
 26 guardian ad litem, attorney for the child, the department and foster par-
 27 ents; provided however, that foster parents are not thereby made parties to
 28 the child protective act action.

29 (6) The permanency plan as approved by the court shall be entered into
 30 the record as an order of the court. The order may include interim and fi-
 31 nal deadlines for implementing the permanency plan and finalizing the perma-
 32 nency goal.

33 (7) If the permanency goal is not termination of parental rights and
 34 adoption or guardianship, the court may approve a permanency plan with a per-
 35 manency goal of another planned permanent living arrangement only upon writ-
 36 ten case-specific findings that specify why a more permanent plan is not in
 37 the best interest of the child.

38 (8) The court may authorize the department to suspend further efforts
 39 to reunify the child with the child's parent, pending further order of the
 40 court, when a petition or other motion is filed in a child protection pro-
 41 ceeding seeking a determination of the court that aggravated circumstances
 42 were present.

43 SECTION 4. That Section 16-1621, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

45 16-1621. CASE PLAN HEARING -- NO FINDING OF AGGRAVATED CIRCUM-
 46 STANCES. (1) In every case in which the child is determined to be within
 47 the jurisdiction of the court, and there is no judicial determination that
 48 aggravated circumstances were present, the department shall prepare a writ-
 49 ten case plan, including cases in which the parent(s) is incarcerated. The

1 court shall schedule a case plan hearing to be held within thirty (30) days
2 after the adjudicatory hearing. The case plan shall be filed with the court
3 no later than five (5) days prior to the case plan hearing. Copies of the
4 case plan shall be delivered to the parents and other legal guardians, the
5 prosecuting attorney or deputy attorney general, the guardian ad litem and
6 attorney for the child. The court shall hold a case plan hearing to determine
7 whether the best interest of the child is served by adopting, rejecting or
8 modifying the case plan proposed by the department.

9 (2) Notice of the case plan hearing shall be provided to the parents,
10 and other legal guardians, the prosecuting attorney or deputing attorney
11 general, guardian ad litem, attorney for the child, the department and fos-
12 ter parents. Although foster parents are provided notice of this hearing,
13 they are not parties to the child protective act action.

14 (3) If the child is placed in the legal custody of the department, the
15 case plan filed by the department shall set forth reasonable efforts that
16 will be made to make it possible for the child to return home. The case plan
17 shall also:

18 (a) Identify the services to be provided to the child, including ser-
19 vices to identify and meet any special educational, emotional, physical
20 or developmental needs the child may have, to assist the child in ad-
21 justing to the placement or to ensure the stability of the placement.

22 (b) Address options for maintaining the child's connection to the com-
23 munity, including individuals with a significant relationship to the
24 child, and organizations or community activities with which the child
25 has a significant connection.

26 (c) Include a goal of reunification and a plan for achieving that
27 goal. The reunification plan shall identify all issues that need to
28 be addressed before the child can safely be returned home without de-
29 partment supervision. The court may specifically identify issues to
30 be addressed by the plan. The reunification plan shall specifically
31 identify the tasks to be completed by the department, each parent or
32 others to address each issue, including services to be made available
33 by the department to the parents and in which the parents are required
34 to participate, and deadlines for completion of each task. The case
35 plan shall state with specificity the role of the department toward each
36 parent. When appropriate, the reunification plan should identify terms
37 for visitation, supervision of visitation and child support.

38 (d) Include a concurrent permanency goal and a plan for achieving that
39 goal. The concurrent permanency goal may be one (1) of the following:
40 termination of parental rights and adoption, guardianship or another
41 planned permanent living arrangement. The concurrent plan shall:

42 (i) Address all options for permanent placement of the child,
43 including consideration of options for in-state and out-of-state
44 placement of the child;

45 (ii) Address the advantages and disadvantages of each option and
46 include a recommendation as to which option is in the child's best
47 interest;

48 (iii) Specifically identify the actions necessary to implement
49 the recommended option;

1 (iv) Specifically set forth a schedule for accomplishing the ac-
2 tions necessary to implement the concurrent permanency goal;

3 (v) Address options for maintaining the child's connection to the
4 community, including individuals with a significant relationship
5 to the child, and organizations or community activities with which
6 the child has a significant connection;

7 (vi) Identify the names of the proposed adoptive parents when
8 known if the permanency goal is termination of parental rights and
9 adoption;

10 (vii) In the case of a child who has attained the age of sixteen
11 (16) years, include the services needed to assist the child to make
12 the transition from foster care to independent living; and

13 (viii) Identify further investigation necessary to identify or
14 assess other options for permanent placement, to identify actions
15 necessary to implement the recommended placement or to identify
16 options for maintaining the child's significant connections.

17 (4) If the child has been placed under protective supervision of the de-
18 partment, the case plan, filed by the department, shall:

19 (a) Identify the services to be provided to the child, including ser-
20 vices to identify and meet any special educational, emotional, physi-
21 cal or developmental needs the child may have, to assist the child in
22 adjusting to the placement or to ensure the stability of the placement.
23 The plan shall also address options for maintaining the child's connec-
24 tion to the community, including individuals with a significant rela-
25 tionship to the child, and organizations or community activities with
26 which the child has a significant connection.

27 (b) Identify all issues that need to be addressed to allow the child to
28 remain at home without department supervision. The court may specifi-
29 cally identify issues to be addressed by the plan. The case plan shall
30 specifically identify the tasks to be completed by the department, the
31 parents or others to address each issue, including services to be made
32 available by the department to the parents and in which the parents are
33 required to participate, and deadlines for completion of each task. The
34 plan shall state with specificity the role of the department toward each
35 parent.

36 (5) The case plan, as approved by the court, shall be entered into the
37 record as an order of the court. The order may include interim and final
38 deadlines for implementing the case plan and finalizing the permanency goal.
39 The court's order shall provide that reasonable efforts shall be made to re-
40 unify the family in a timely manner in accordance with the case plan. Unless
41 the child has been placed under the protective supervision of the depart-
42 ment, the court's order shall also require the department to simultaneously
43 take steps to accomplish the goal of reunification and the concurrent perma-
44 nency goal.

45 SECTION 5. That Section 16-1622, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 16-1622. REVIEW HEARINGS -- ANNUAL PERMANENCY HEARINGS. (1) Review
48 hearing.

1 (a) A hearing for review of the child's case and permanency plan shall
2 be held no later than six (6) months after entry of the court's order
3 taking jurisdiction under this act and every six (6) months thereafter.
4 The purpose of the review hearing is to determine:

5 (i) The safety of the child;

6 (ii) The continuing necessity for and appropriateness of the
7 placement;

8 (iii) The extent of compliance with the case plan;

9 (iv) The extent of progress that has been made toward alleviating
10 or mitigating the causes necessitating placement in foster care;
11 and

12 (v) When reasonable, to project a likely date by which the child
13 may be safely returned to and maintained in the home or placed in
14 another permanent placement.

15 (b) A motion for revocation or modification of an order issued un-
16 der section 16-1619, Idaho Code, may be filed by the department or any
17 party; provided that no motion may be filed by the respondents under
18 this section within three (3) months of a prior hearing on care and
19 placement of the child. Notice of a motion for review of a child's case
20 shall be provided to the parents and other legal guardians, the prose-
21 cuting attorney or deputy attorney general, guardian ad litem, attorney
22 for the child, the department and foster parents.

23 (c) If the motion filed under paragraph (b) of this subsection alleges
24 that the child's best interests are no longer served by carrying out the
25 order issued under section 16-1619, Idaho Code, or that the department
26 or other authorized agency has failed to provide adequate care for the
27 child, the court shall hold a hearing on the motion.

28 (d) The department or authorized agency may move the court at any time
29 to vacate any order placing a child in its custody or under its protec-
30 tive supervision.

31 (2) Permanency plan and hearing.

32 (a) The permanency plan shall include a permanency goal. The per-
33 manency goal may be one (1) of the following: continued efforts at
34 reunification, in the absence of a judicial determination of aggra-
35 vated circumstances; or termination of parental rights and adoption,
36 guardianship or another planned permanent living arrangement. Every
37 permanency plan shall include the information set forth in section
38 16-1621(3)(a), Idaho Code. If the permanency plan has reunification as
39 a permanency goal, the plan shall include information set forth in sec-
40 tion 16-1621(3)(c), Idaho Code. If the permanency plan has a permanency
41 goal other than reunification, the plan shall include the information
42 set forth in section 16-1621(3)(d), Idaho Code, and, if the permanency
43 goal is termination of parental rights and adoption, then in addition to
44 the information set forth in section 16-1620(3), Idaho Code, the per-
45 manency plan shall also name the proposed adoptive parents when known.
46 If the adoptive parents are not known at the time the permanency plan is
47 prepared, then the department shall amend the plan to name the proposed
48 adoptive parents as soon as such person or persons become known. The
49 court may approve a permanency plan which includes a primary goal and a
50 concurrent goal.

1 (b) A permanency hearing shall be held no later than twelve (12) months
2 from the date the child is removed from the home or the date of the
3 court's order taking jurisdiction under this chapter, whichever occurs
4 first, and at least every twelve (12) months thereafter, so long as the
5 court has jurisdiction over the child. The court shall approve, reject
6 or modify the permanency plan of the department and review progress in
7 accomplishing the permanency goal. A permanency hearing may be held
8 at any time and may be combined with the review hearing required under
9 subsection (1) of this section.

10 (c) The court shall make written case-specific findings whether the
11 department made reasonable efforts to finalize the primary permanency
12 goal in effect for the child. Lack of reasonable efforts to reunify may
13 be a basis for an order approving a permanency plan with a permanency
14 goal of reunification.

15 (d) Where the permanency goal is not reunification, the hearing shall
16 include a review of the department's consideration of options for
17 in-state and out-of-state placement of the child. In the case of a
18 child in an out-of-state placement, the court shall determine whether
19 the out-of-state placement continues to be appropriate and in the best
20 interest of the child.

21 (e) In the case of a child who has attained the age of sixteen (16)
22 years, the hearing shall include a determination of the services needed
23 to assist the child to make the transition from foster care to indepen-
24 dent living.

25 (f) The court may approve a primary permanency goal of another planned
26 permanent living arrangement only upon written, case-specific findings
27 that there are compelling reasons why a more permanent goal is not in the
28 best interests of the child.

29 (g) If the child has been in the temporary or legal custody of the de-
30 partment for fifteen (15) of the most recent twenty-two (22) months, the
31 department shall file, prior to the last day of the fifteenth month, a
32 petition to terminate parental rights, unless the court finds that:

33 (i) The child is placed permanently with a relative;

34 (ii) There are compelling reasons why termination of parental
35 rights is not in the best interests of the child; or

36 (iii) The department has failed to provide reasonable efforts to
37 reunify the child with his family.

38 (h) The court may authorize the department to suspend further efforts
39 to reunify the child with the child's parent, pending further order of
40 the court, when a permanency plan is approved by the court and the perma-
41 nency plan does not include a permanency goal of reunification.

42 SECTION 6. That Section 16-1629, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 16-1629. POWERS AND DUTIES OF THE DEPARTMENT. The department, working
45 in conjunction with the court and other public and private agencies and per-
46 sons, shall have the primary responsibility to implement the purpose of this
47 chapter. To this end, the department is empowered and shall have the duty to
48 do all things reasonably necessary to carry out the purpose of this chapter,
49 including, but not limited to, the following:

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

7 (2) On December 1, the department shall make an annual statistical
8 report to the governor covering the preceding fiscal year showing the num-
9 ber and status of persons in its custody and including such other data as
10 will provide sufficient facts for sound planning in the conservation of
11 children and youth. All officials and employees of the state and of every
12 county and city shall furnish the department, upon request, such information
13 within their knowledge and control as the department deems necessary. Lo-
14 cal agencies shall report in such uniform format as may be required by the
15 department.

16 (3) The department shall be required to maintain a central registry for
17 the reporting of child neglect, abuse and abandonment information. Provided
18 however, that the department shall not retain any information for this pur-
19 pose relating to a child, or parent of a child, abandoned pursuant to chapter
20 82, title 39, Idaho Code.

21 (4) The department shall make periodic evaluation of all persons in its
22 custody or under its protective supervision for the purpose of determining
23 whether existing orders and dispositions in individual cases shall be modi-
24 fied or continued in force. Evaluations may be made as frequently as the de-
25 partment considers desirable and shall be made with respect to every person
26 at intervals not exceeding six (6) months. Reports of evaluation made pur-
27 suant to this section shall be filed with the court that has jurisdiction.
28 Reports of evaluation shall be provided to persons having full or partial le-
29 gal or physical custody of a child. Failure of the department to evaluate a
30 person or to reevaluate him within six (6) months of a previous examination
31 shall not of itself entitle the person to a change in disposition but shall
32 entitle him, his parent, guardian or custodian or his counsel to petition the
33 court pursuant to section 16-1622, Idaho Code.

34 (5) In a consultive capacity, the department shall assist communities
35 in the development of constructive programs for the protection, prevention
36 and care of children and youth.

37 (6) The department shall keep written records of investigations, eval-
38 uations, prognoses and all orders concerning disposition or treatment of ev-
39 ery person over whom it has legal custody or under its protective supervi-
40 sion. Department records shall be subject to disclosure according to chap-
41 ter 1, title 74, Idaho Code, unless otherwise ordered by the court, the per-
42 son consents to the disclosure, or disclosure is necessary for the delivery
43 of services to the person. Notwithstanding the provisions restricting dis-
44 closure or the exemptions from disclosure provided in chapter 1, title 74,
45 Idaho Code, all records pertaining to investigations, the rehabilitation of
46 youth, the protection of children, evaluation, treatment and/or disposi-
47 tion records pertaining to the statutory responsibilities of the department
48 shall be disclosed to any duly elected state official carrying out his offi-
49 cial functions.

1 (7) The department shall establish appropriate administrative proce-
2 dures for the processing of complaints of child neglect, abuse and abandon-
3 ment received and for the implementation of the protection, treatment and
4 care of children formally or informally placed in the custody of the depart-
5 ment or under its protective supervision under this chapter including, but
6 not limited to:

7 (a) Department employees whose job duties are related to the child pro-
8 tective services system under this chapter shall first be trained as to
9 their obligations under this chapter regarding the protection of chil-
10 dren whose health and safety may be endangered. The curriculum shall
11 include information regarding their legal duties, how to conduct their
12 work in conformity with the requirements of this chapter, information
13 regarding applicable federal and state laws with regard to the rights
14 of the child, parent and others who may be under investigation under the
15 child protective services system, and the applicable legal and consti-
16 tutional parameters within which they are to conduct their work.

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

21 (8) The department having been granted legal custody of a child, ~~sub-~~
22 ~~ject to the judicial review provisions of this subsection,~~ shall have the
23 right to determine where and with whom the child shall live, provided that
24 the child shall not be placed outside the state without the court's consent.
25 ~~Provided however, that t~~The court shall retain jurisdiction over the child,
26 which jurisdiction shall be entered on any order or petition granting legal
27 custody to the department, and the court shall have jurisdiction over all
28 matters relating to the child. The department shall not place the child in
29 the home from which the court ordered the child removed without first obtain-
30 ing the approval of the court. Notwithstanding the provisions of this sub-
31 section, all other determinations relating to where and with whom the child
32 shall live shall be subject to judicial review by the court and, when con-
33 tested by any party, judicial approval.

34 (9) The department shall give to the court any information concerning
35 the child that the court may at any time require, but in any event shall re-
36 port the progress of the child under its custody or under its protective su-
37 pervision at intervals of not to exceed six (6) months. The department shall
38 file with the court at least five (5) days prior to the permanency hearing ei-
39 ther under section 16-1622, Idaho Code, or, in the case of a finding of aggra-
40 vated circumstances, section 16-1620, Idaho Code, the permanency plan and
41 recommendations of the department.

42 (10) The department shall establish appropriate administrative proce-
43 dures for the conduct of administrative reviews and hearings as required by
44 federal statute for all children committed to the department and placed in
45 out of the home care.

46 (11) At any time the department is considering a placement pursuant to
47 this chapter, the department shall make a reasonable effort to place the
48 child in the least restrictive environment to the child and in so doing shall
49 consider, consistent with the best interest and special needs of the child,
50 placement priority of the child in the following order:

1 (a) A fit and willing relative.

2 (b) A fit and willing nonrelative with a significant relationship with
3 the child.

4 (c) Foster parents and other persons licensed in accordance with chap-
5 ter 12, title 39, Idaho Code, with a significant relationship with the
6 child.

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

9 (12) If the caseworker assigned to a foster care case recommends re-
10 moving the child from a foster home in which the child has been placed for
11 sixty (60) or more days, for placement in another foster home, then the case
12 worker's supervisor shall conduct a review of the foster care case and must
13 approve such recommendation before a change in foster home placement occurs.
14 The supervisor shall consider the best interests and special needs of the
15 child, including:

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

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

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

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

23 (13) If the supervisor determines that the recommended change in foster
24 care placement is in the best interests of the child, then the department may
25 change the placement of the child; provided that, the department shall give
26 the foster parents written notice of the planned change at least seven (7)
27 days before the change in placement.

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

33 (15) In its written notice of a planned or unplanned change required
34 under this section, the department shall clearly state the reasons for the
35 change in placement of the child.

36 SECTION 7. That Chapter 16, Title 16, Idaho Code, be, and the same is
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
38 ignated as Section 16-1644, Idaho Code, and to read as follows:

39 16-1644. EXEMPTION. Notwithstanding any other provision of law, noth-
40 ing in this chapter modifies or supersedes the requirements of the Indian
41 child welfare act of 1978, 25 U.S.C. 1901, et seq.