



1 (b) Vest legal custody in the department or other authorized agency  
2 subject to residual parental rights and subject to full judicial review  
3 by the court and, when contested by any party, judicial approval of all  
4 matters relating to the custody of the child by the department or other  
5 authorized agency.

6 (6) If the court vests legal custody in the department or other autho-  
7 rized agency, the court shall make detailed written findings based on facts  
8 in the record, that, in addition to the findings required in subsection (4)  
9 of this section, continuation of residence in the home would be contrary to  
10 the welfare of the child and that vesting legal custody with the department  
11 or other authorized agency would be in the best interests of the child. In  
12 addition the court shall make detailed written findings based on facts in the  
13 record as to whether the department made reasonable efforts to prevent the  
14 placement of the child in foster care, including findings, when appropriate,  
15 that:

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

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

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

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

27 (7) (a) The court shall also inquire regarding:

28 (i) Whether there is reason to believe that the child is an Indian  
29 child;

30 (ii) The efforts that have been made since the last hearing to de-  
31 termine whether the child is an Indian child; and

32 (iii) The department's efforts to work with all tribes of which the  
33 child may be a member to verify whether the child is a member or el-  
34 ligible for membership.

35 (b) In addition, if the court vests legal custody of the child in the  
36 department or other authorized agency, the court shall inquire as to:

37 (i) If the child is of school age, the department's efforts to  
38 keep the child in the school at which the child is currently en-  
39 rolled; and

40 (ii) If a sibling group was removed from their home, the depart-  
41 ment's efforts to place the siblings together, or if the depart-  
42 ment has not placed or will not be placing the siblings together,  
43 about a plan to ensure frequent visitation or ongoing interac-  
44 tion among the siblings, unless visitation or ongoing interaction  
45 would be contrary to the safety or well-being of one (1) or more of  
46 the siblings.

47 (c) If the court vests legal custody of the child in the department  
48 or other authorized agency and the child is being treated with psy-  
49 chotropic medication, these additional requirements shall apply:

1 (i) The department shall report to the court the medications and  
2 dosages prescribed for the child and the medical professional who  
3 prescribed the medication; and

4 (ii) The court shall inquire as to, and may make any additional  
5 inquiry relevant to, the use of psychotropic medications.

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

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

13 (10) In order to preserve the unity of the family system and to ensure  
14 the best interests of the child whether issuing an order of protective super-  
15 vision or an order of legal custody, the court may consider extending or ini-  
16 tiating a protective order as part of the decree. The protective order shall  
17 be determined as in the best interests of the child and upon a showing of con-  
18 tinuing danger to the child. The conditions and terms of the protective or-  
19 der shall be clearly stated in the decree.

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

23 (12) Where legal custody of a child is vested in the department, any  
24 party or counsel for a child may, at or after the disposition phase of an ad-  
25 judicatory hearing, file and serve a written motion to contest matters re-  
26 lating to the placement of the child by the department. The hearing must be  
27 held not later than thirty days (30) days from the date the motion was filed.  
28 If the court approves the placement, the court shall enter an order denying  
29 the motion. If the court does not approve the placement, the court shall enter  
30 an order directing the department to identify and implement an alterna-  
31 tive placement in accordance with applicable law. The court shall consider  
32 everything necessary or proper in the best interests of the children. The  
33 court shall consider all relevant factors which may include:

34 (a) The wishes of the child as to his or her custodian;

35 (b) The wishes of the child's parent or parents as to his or her custody  
36 if appropriate;

37 (c) The interaction and interrelationship of the child with his or her  
38 parent or parents or foster parent or foster parents, and his or her sib-  
39 lings;

40 (d) The child's adjustment to his or her home, school, and community;

41 (e) The character and circumstances of all individuals involved;

42 (f) The need to promote continuity and stability in the life of the  
43 child; and

44 (g) Domestic violence as defined in section 39-6303, Idaho Code,  
45 whether or not in the presence of the child.