

IN THE SENATE

SENATE BILL NO. 1092

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1615, IDAHO CODE,
2 TO REVISE TERMINOLOGY; AMENDING SECTION 16-1619, IDAHO CODE, TO REVISE
3 TERMINOLOGY; AMENDING SECTION 16-1620, IDAHO CODE, TO REVISE TERMI-
4 NOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1621,
5 IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;
6 AND AMENDING SECTION 16-1622, IDAHO CODE, TO REVISE TERMINOLOGY AND TO
7 MAKE A TECHNICAL CORRECTION.
8

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

10 SECTION 1. That Section 16-1615, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 16-1615. SHELTER CARE HEARING. (1) Notwithstanding any other provi-
13 sion of this chapter, when a child is taken into shelter care pursuant to sec-
14 tion 16-1608 or 16-1611, Idaho Code, a hearing to determine whether the child
15 should be released shall be held according to the provisions of this section.

16 (2) Each of the parents or custodian from whom the child was removed
17 shall be given notice of the shelter care hearing. Such notice shall include
18 the time, place, and purpose of the hearing; and, that such person is enti-
19 tled to be represented by legal counsel. Notice as required by this subsec-
20 tion shall be given at least twenty-four (24) hours before the shelter care
21 hearing.

22 (3) Notice of the shelter care hearing shall be given to the parents or
23 custodian from whom the child was removed by personal service and the return
24 of service shall be filed with the court and to any person having joint legal
25 or physical custody of the subject child. Provided, however, that such ser-
26 vice need not be made where the undelivered notice is returned to the court
27 along with an affidavit stating that such parents or custodian could not be
28 located or were out of the state.

29 (4) The shelter care hearing may be continued for a reasonable time upon
30 request by the parent, custodian or counsel for the child.

31 (5) If, upon the completion of the shelter care hearing, it is shown
32 that:

33 (a) A petition has been filed; and

34 (b) There is reasonable cause to believe the child comes within the ju-
35 risdiction of the court under this chapter and either:

36 (i) The department made reasonable efforts to eliminate the need
37 for shelter care but the efforts were unsuccessful; or

38 (ii) The department made reasonable efforts to eliminate the need
39 for shelter care but was not able to safely provide preventive ser-
40 vices; and

41 (c) The child could not be placed in the temporary sole custody of a par-
42 ent having joint legal or physical custody; and

- 1 (d) It is contrary to the welfare of the child to remain in the home; and
 2 (e) It is in the best interests of the child to remain in temporary shel-
 3 ter care pending the conclusion of the adjudicatory hearing.

4 The court shall issue, within twenty-four (24) hours of such hearing, a shel-
 5 ter care order placing the child in the temporary legal custody of the de-
 6 partment or other authorized agency. Any evidence may be considered by the
 7 court which is of the type which reasonable people may rely upon.

8 (6) Upon finding reasonable cause pursuant to subsection (5) (b) of this
 9 section, the court shall order an adjudicatory hearing to be held as soon as
 10 possible, but in no event later than thirty (30) days from the date the peti-
 11 tion was filed. In addition, the court shall inquire whether there is reason
 12 to ~~believe~~ know that the child is an Indian child.

13 (7) Upon entry of an order of shelter care, the court shall inquire:

14 (a) If the child is of school age, about the department's efforts to
 15 keep the child in the school at which the child is currently enrolled;
 16 and

17 (b) If a sibling group was removed from their home, about the depart-
 18 ment's efforts to place the siblings together, or if the department has
 19 not placed or will not be placing the siblings together, about a plan
 20 to ensure frequent visitation or ongoing interaction among the sib-
 21 lings, unless visitation or ongoing interaction would be contrary to
 22 the safety or well-being of one (1) or more of the siblings.

23 (8) If there is reasonable cause to believe that the child comes within
 24 the jurisdiction of the court under this chapter, but a reasonable effort to
 25 prevent placement of the child outside the home could be affected by a pro-
 26 tective order safeguarding the child's welfare, the court may issue, within
 27 twenty-four (24) hours of such hearing, a protective order. Any evidence may
 28 be considered by the court that is of the type which reasonable people may
 29 rely upon.

30 (9) If the court does not find that the child should be placed in or re-
 31 main in shelter care under subsection (5) of this section, the child shall be
 32 released.

33 (10) If the court does not find reasonable cause pursuant to subsection
 34 (5) (b) of this section, the court shall dismiss the petition.

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

37 16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDA-
 38 TION. (1) When a petition has been filed, the court shall set an adjudicatory
 39 hearing to be held no later than thirty (30) days after the filing of the
 40 petition.

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

47 (3) At the adjudicatory hearing, parents or guardians with disabil-
 48 ities shall have the right to introduce admissible evidence regarding how
 49 use of adaptive equipment or supportive services may enable the parent or

1 guardian to carry out the responsibilities of parenting the child by ad-
2 dressing the reason for the removal of the child.

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

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

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

14 (b) Vest legal custody in the department or other authorized agency
15 subject to residual parental rights and subject to full judicial review
16 by the court and, when contested by any party, judicial approval of all
17 matters relating to the custody of the child by the department or other
18 authorized agency.

19 (6) If the court vests legal custody in the department or other autho-
20 rized agency, the court shall make detailed written findings based on facts
21 in the record that, in addition to the findings required in subsection (4) of
22 this section, continuation of residence in the home would be contrary to the
23 welfare of the child and that vesting legal custody with the department or
24 other authorized agency would be in the best interests of the child. In ad-
25 dition, the court shall make detailed written findings based on facts in the
26 record as to whether the department made reasonable efforts to prevent the
27 placement of the child in foster care, including findings, when appropriate,
28 that:

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

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

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

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

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

41 (i) Whether there is reason to believe know that the child is an
42 Indian child;

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

45 (iii) The department's efforts to work with all tribes of which the
46 child may be a member to verify whether the child is a member or el-
47 igible for membership.

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

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

4 (ii) If a sibling group was removed from the home, the depart-
5 ment's efforts to place the siblings together, or if the depart-
6 ment has not placed or will not be placing the siblings together,
7 about a plan to ensure frequent visitation or ongoing interac-
8 tion among the siblings, unless visitation or ongoing interaction
9 would be contrary to the safety or well-being of one (1) or more of
10 the siblings.

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

14 (i) The department shall report to the court the medications and
15 dosages prescribed for the child and the medical professional who
16 prescribed the medication; and

17 (ii) The court shall inquire about and may make any additional in-
18 quiry relevant to the use of psychotropic medications.

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

21 (9) A decree vesting legal custody in an authorized agency other than
22 the department shall be for a period of time not to exceed the child's eigh-
23 teenth birthday and on such other terms as the court shall state in its decree
24 to be in the best interests of the child and which the court finds to be ac-
25 ceptable to such authorized agency.

26 (10) In order to preserve the unity of the family system and to ensure
27 the best interests of the child, whether issuing an order of protective su-
28 pervision or an order of legal custody, the court may consider extending or
29 initiating a protective order as part of the decree. The protective order
30 shall be determined as in the best interests of the child and upon a showing
31 of continuing danger to the child. The conditions and terms of the protec-
32 tive order shall be clearly stated in the decree.

33 (11) If the court does not find that the child comes within the juris-
34 diction of this chapter pursuant to subsection (4) of this section, it shall
35 dismiss the petition.

36 (12) Where legal custody of a child is vested in the department, any
37 party or counsel for a child may, at or after the disposition phase of an
38 adjudicatory hearing, file and serve a written motion to contest matters
39 relating to the placement of the child by the department. The hearing must
40 be held no later than thirty (30) days from the date the motion was filed. If
41 the court approves the placement, the court shall enter an order denying the
42 motion. If the court does not approve the placement, the court shall enter
43 an order directing the department to identify and implement an alternative
44 placement in accordance with applicable law. The court shall consider ev-
45 erything necessary or proper in the best interests of the children. The
46 court shall consider all relevant factors, which may include:

47 (a) The wishes of the child regarding the child's custodian;

48 (b) The wishes of the child's parent or parents regarding the child's
49 custody, if appropriate;

- 1 (c) The interaction and interrelationship of the child with his parent
2 or parents or foster parent or foster parents, and the child's siblings;
3 (d) The child's adjustment to his home, school and community;
4 (e) The character and circumstances of all individuals involved;
5 (f) The need to promote continuity and stability in the life of the
6 child; and
7 (g) A history of domestic violence as defined in section 39-6303, Idaho
8 Code, whether or not in the presence of the child, or a conviction for
9 lewd and lascivious conduct or felony injury to a child.

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

12 16-1620. FINDING OF AGGRAVATED CIRCUMSTANCES -- PERMANENCY PLAN --
13 HEARING. (1) After a judicial determination that reasonable efforts to re-
14 turn the child to his home are not required because aggravated circumstances
15 were found to be present, the court shall hold a permanency hearing within
16 thirty (30) days after the finding, and every twelve (12) months thereafter
17 for as long as the court has jurisdiction. The department shall prepare a
18 permanency plan and file the permanency plan with the court at least five (5)
19 days prior to the permanency hearing. If the permanency plan has a goal of
20 termination of parental rights and adoption, the department shall file the
21 petition to terminate as required in section 16-1624(2), Idaho Code. Copies
22 of the permanency plan shall be delivered to the parents and other legal
23 guardians, prosecuting attorney or deputy attorney general, the guardian ad
24 litem and attorney for the child.

25 (2) The permanency plan shall have a permanency goal of termination of
26 parental rights and adoption, guardianship or, for youth age sixteen (16)
27 years and older only, another planned permanent living arrangement and shall
28 set forth the reasonable efforts necessary to finalize the permanency goal.

29 (3) The permanency plan shall also:

30 (a) Identify the services to be provided to the child, including ser-
31 vices to identify and meet any educational, emotional, physical or de-
32 velopmental needs the child may have, to assist the child in adjusting
33 to the placement or to ensure the stability of the placement;

34 (b) Address all options for permanent placement of the child, including
35 consideration of options for in-state and out-of-state placement of the
36 child;

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

39 (d) Specifically identify the actions necessary to implement the rec-
40 ommended option;

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

43 (f) Address the options for maintaining the child's connection to the
44 community, including individuals with a significant relationship to
45 the child, and organizations or community activities with which the
46 child has a significant connection. This shall also include the efforts
47 made to ensure educational stability for the child, the efforts to keep
48 the child in the school in which the child is enrolled at the time of

1 placement or the reasons why remaining in that school is not in the best
2 interests of the child;

3 (g) Document that siblings were placed together, or if siblings were
4 not placed together, document the efforts made to place siblings to-
5 gether, the reasons why siblings were not placed together, and a plan
6 for ensuring frequent visitation or ongoing interaction between the
7 siblings, unless visitation or ongoing interaction would be contrary to
8 the safety or well-being of one (1) or more of the siblings;

9 (h) For youth age fourteen (14) years and older:

10 (i) Identify the services needed to assist the youth to make the
11 transition from foster care to successful adulthood; and

12 (ii) Document the youth's rights in regard to his education,
13 health, visitation, court participation and receipt of an annual
14 credit report, including a signed acknowledgment by the depart-
15 ment that the youth was provided with a written copy of these
16 rights and that the rights were explained to the youth in an age or
17 developmentally appropriate manner;

18 (i) For youth age sixteen (16) years and older with a proposed perma-
19 nency goal of another planned permanent living arrangement, document:

20 (i) The intensive, ongoing, and as of the date of the hearing,
21 unsuccessful efforts made to place the youth with a parent, in an
22 adoptive placement, in a guardianship, or in the legal custody of
23 the department in a placement with a fit and willing relative, in-
24 cluding an adult sibling;

25 (ii) Why another planned permanent living arrangement is the best
26 permanency plan for the youth and compelling reasons why, as of the
27 date of the permanency hearing, it would not be in the best inter-
28 est of the youth to be placed permanently with a parent, in an adop-
29 tive placement, in a guardianship, or in the legal custody of the
30 department in a placement with a fit and willing relative, includ-
31 ing an adult sibling;

32 (iii) The steps that the department has taken to ensure that the
33 youth's foster parents or child care institution are following the
34 reasonable and prudent parent standard when determining whether
35 to allow the youth in their care to participate in extracurricu-
36 lar, enrichment, cultural and social activities; and

37 (iv) The opportunities provided to the youth to engage in age or
38 developmentally appropriate activities;

39 (j) If there is reason to ~~believe~~ know the child is an Indian child and
40 there has been no final determination as to the child's status as an In-
41 dian child, document:

42 (i) The efforts made to determine whether the child is an Indian
43 child; and

44 (ii) The department's efforts to work with all tribes of which the
45 child may be a member to verify whether the child is a member or el-
46 igible for membership; and

47 (k) Identify the prospective adoptive parents, if known; if the
48 prospective adoptive parents are not known, the department shall amend
49 the plan to name the proposed adoptive parents as soon as such persons
50 become known.

1 (4) The court shall hold a permanency hearing to determine whether the
2 best interest of the child is served by adopting, rejecting or modifying the
3 permanency plan proposed by the department. At each permanency hearing:

4 (a) For youth age twelve (12) years and older, unless good cause is
5 shown, the court shall ask the youth about his desired permanency out-
6 come and consult with the youth about the youth's current permanency
7 plan;

8 (b) If there is reason to ~~believe~~ know that the child is an Indian child
9 and there has not been a final determination regarding the child's sta-
10 tus as an Indian child, the court shall:

11 (i) Inquire about the efforts that have been made since the last
12 hearing to determine whether the child is an Indian child; and

13 (ii) Determine that the department is using active efforts to work
14 with all tribes of which the child may be a member to verify whether
15 the child is a member or eligible for membership-;

16 (c) If the child is being treated with psychotropic medication, these
17 additional requirements shall apply:

18 (i) The department shall report to the court the medication and
19 dosage prescribed for the child and the medical professional who
20 prescribed the medication; and

21 (ii) The court shall inquire as to, and may make any additional
22 inquiry relevant to, the use of psychotropic medication.

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

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

32 (7) For youth with a proposed or current permanency goal of another
33 planned permanent living arrangement, at each permanency hearing the court
34 shall make written, case-specific findings that as of the date of the perma-
35 nency hearing another planned permanent living arrangement is the best per-
36 manency plan for the youth and that there are compelling reasons why it is
37 not in the youth's best interest to be placed permanently with a parent, in
38 an adoptive placement, in a guardianship, or in the legal custody of the de-
39 partment in a placement with a fit and willing relative, including an adult
40 sibling.

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

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

48 16-1621. CASE PLAN HEARING -- NO FINDING OF AGGRAVATED CIRCUM-
49 STANCES. (1) In every case in which the child is determined to be within

1 the jurisdiction of the court and there is no judicial determination that
2 aggravated circumstances were present, the department shall prepare a writ-
3 ten case plan, including cases in which the parent(s) is incarcerated. The
4 court shall schedule a case plan hearing to be held within thirty (30) days
5 after the adjudicatory hearing. The case plan shall be filed with the court
6 no later than five (5) days prior to the case plan hearing. Copies of the
7 case plan shall be delivered to the parents and other legal guardians, the
8 prosecuting attorney or deputy attorney general, the guardian ad litem and
9 attorney for the child.

10 (a) The court shall hold a case plan hearing to determine whether the
11 best interest of the child is served by adopting, rejecting or modifying
12 the case plan proposed by the department.

13 (b) If there is reason to ~~believe~~ know that the child is an Indian child
14 and there has not been a final determination regarding the child's statu-
15 tus as an Indian child, the court shall:

16 (i) Inquire about the efforts that have been made since the last
17 hearing to determine whether the child is an Indian child; and

18 (ii) Determine that the department is using active efforts to work
19 with all tribes of which the child may be a member to verify whether
20 the child is a member or eligible for membership.

21 (c) If the child is being treated with psychotropic medication, the
22 court shall inquire as to, and may make any additional inquiry relevant
23 to, the use of psychotropic medication.

24 (2) Notice of the case plan hearing shall be provided to the parents,
25 and other legal guardians, the prosecuting attorney or deputy attorney gen-
26 eral, guardian ad litem, attorney for the child, the department, and foster
27 parents. Although foster parents are provided notice of this hearing, they
28 are not parties to the child protective act action.

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

33 (a) Identify the services to be provided to the child, including ser-
34 vices to identify and meet any educational, emotional, physical or de-
35 velopmental needs the child may have, and to assist the child in adjust-
36 ing to the placement or to ensure the stability of the placement. For
37 youth age fourteen (14) years and older:

38 (i) Identify the services needed to assist the youth in making the
39 transition to successful adulthood; and

40 (ii) Document the youth's rights in regard to his education and
41 health, visitation, court participation and receipt of an annual
42 credit report, including a signed acknowledgment by the depart-
43 ment that the youth was provided with a written copy of these
44 rights and that the rights were explained to the youth in an age or
45 developmentally appropriate manner;

46 (b) Address the options for maintaining the child's connection to the
47 community:

48 (i) Include connections to individuals with a significant rela-
49 tionship to the child and organizations or community activities
50 with which the child has a significant connection;

1 (ii) Ensure educational stability for the child, including the
2 efforts to keep the child in the school in which the child is en-
3 rolled at the time of placement or the reasons why remaining in
4 that school is not in the best interests of the child;

5 (iii) Include a visitation plan and identify the need for supervi-
6 sion of visitation and child support;

7 (iv) Document either that siblings were placed together or, if
8 siblings were not placed together, document the efforts made to
9 place the siblings together, the reasons why siblings were not
10 placed together and a plan for ensuring frequent visitation or
11 other ongoing interaction among siblings, unless visitation or
12 ongoing interaction would be contrary to the safety or well-being
13 of one (1) or more of the siblings; and

14 (v) If there is reason to ~~believe~~ know the child is an Indian child
15 and there has been no final determination as to the child's status
16 as an Indian child, document:

17 1. The efforts made to determine whether the child is an In-
18 dian child; and

19 2. The department's efforts to work with all tribes of which
20 the child may be a member to verify whether the child is a
21 member or eligible for membership;

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

34 (d) Include a concurrent permanency goal and a plan for achieving that
35 goal. The concurrent permanency goal may be one (1) of the following:
36 termination of parental rights and adoption, guardianship or, for youth
37 age sixteen (16) years or older only, another planned permanent living
38 arrangement. The concurrent plan shall:

39 (i) Address all options for permanent placement of the child,
40 including consideration of options for in-state and out-of-state
41 placement of the child;

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

45 (iii) Specifically identify the actions necessary to implement
46 the recommended option;

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

49 (v) Address options for maintaining the child's connection to
50 the community, including individuals with a significant relation-

1 ship to the child and organizations or community activities with
2 which the child has a significant connection;

3 (vi) Identify the names of the proposed adoptive parents when
4 known if the permanency goal is termination of parental rights and
5 adoption;

6 (vii) In the case of a child who has attained the age of fourteen
7 (14) years, include the services needed to assist the child to make
8 the transition from foster care to successful adulthood;

9 (viii) For youth with a proposed permanency goal of another perma-
10 nent planned living arrangement, document:

11 1. The intensive, ongoing and, as of the date of the hearing,
12 unsuccessful efforts made to place the youth with a parent
13 in an adoptive placement, in a guardianship, or in the legal
14 custody of the department in a placement with a fit and will-
15 ing relative, including an adult sibling;

16 2. Why another planned permanent living arrangement is the
17 best permanency goal for the youth and a compelling reason
18 why, as of the date of the case plan hearing, it would not be
19 in the best interest of the child to be placed permanently
20 with a parent, in an adoptive placement, in a guardianship,
21 or in the legal custody of the department in a placement with
22 a fit and willing relative, including an adult sibling;

23 3. The steps taken by the department to ensure that the
24 youth's foster parents or child care institution are follow-
25 ing the reasonable and prudent parent standard when making
26 decisions about whether the youth can engage in extracurric-
27 ular, enrichment, cultural and social activities; and

28 4. The opportunities provided to the youth to regularly en-
29 gage in age or developmentally appropriate activities; and

30 (ix) Identify further investigation necessary to identify or as-
31 sess other options for permanent placement, to identify actions
32 necessary to implement the recommended placement or to identify
33 options for maintaining the child's significant connections.

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

36 (a) Identify the services to be provided to the child, including ser-
37 vices to identify and meet any educational, emotional, physical or
38 developmental needs the child may have, and to assist the child in ad-
39 justing to the placement or to ensure the stability of the placement.
40 For youth age fourteen (14) years and older, identify the services
41 needed to assist the youth in making the transition to successful adult-
42 hood and document the youth's rights in regard to his education and
43 health, visitation, court participation and receipt of an annual credit
44 report, including a signed acknowledgment by the department that the
45 youth was provided with a written copy of his rights and that the rights
46 were explained to the youth in an age or developmentally appropriate
47 manner. The plan shall also address options for maintaining the child's
48 connection to the community, including individuals with a significant
49 relationship to the child and organizations or community activities
50 with which the child has a significant connection;

1 (b) Identify all issues that need to be addressed to allow the child to
2 remain at home without department supervision. The court may specifi-
3 cally identify issues to be addressed by the plan. The case plan shall
4 specifically identify the tasks to be completed by the department, the
5 parents or others to address each issue, including services to be made
6 available by the department to the parents and in which the parents are
7 required to participate, and deadlines for completion of each task. The
8 plan shall state with specificity the role of the department toward each
9 parent.

10 (5) The case plan, as approved by the court, shall be entered into the
11 record as an order of the court. The order may include interim and final
12 deadlines for implementing the case plan and finalizing the permanency goal.
13 The court's order shall provide that reasonable efforts shall be made to re-
14 unify the family in a timely manner in accordance with the case plan. Unless
15 the child has been placed under the protective supervision of the depart-
16 ment, the court's order shall also require the department to simultaneously
17 take steps to accomplish the goal of reunification and the concurrent perma-
18 nency goal.

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

21 16-1622. REVIEW HEARINGS -- STATUS HEARINGS -- ANNUAL PERMANENCY
22 HEARINGS. (1) Review hearing.

23 (a) A hearing for review of the child's case and permanency plan shall
24 be held no later than six (6) months after entry of the court's order
25 taking jurisdiction under this act and every six (6) months thereafter.
26 The department and the guardian ad litem shall file reports to the court
27 no later than five (5) days prior to the six (6) month review hearing.
28 The purpose of the review hearing is:

29 (i) To determine:

- 30 1. The safety of the child;
- 31 2. The continuing necessity for and appropriateness of the
32 placement;
- 33 3. The extent of compliance with the case plan; and
- 34 4. The extent of progress that has been made toward alle-
35 viating or mitigating the causes necessitating placement in
36 foster care;

37 (ii) To determine or continue to investigate whether the child is
38 an Indian child. If there is reason to ~~believe~~ know that the child
39 is an Indian child and there has not been a final determination re-
40 garding the child's status as an Indian child:

- 41 1. The department shall document and the court shall inquire
42 about the efforts that have been made since the last hearing
43 to determine whether the child is an Indian child; and
- 44 2. The department shall document and the court shall de-
45 termine that the department is using active efforts to work
46 with all tribes of which the child may be a member to verify
47 whether the child is a member or eligible for membership;

48 (iii) To inquire regarding the child's educational stability. The
49 department shall document and the court shall inquire as to the ef-

1 forts made to ensure educational stability for the child, includ-
2 ing the efforts made to keep the child in the school in which the
3 child is enrolled at the time of placement or the reason that re-
4 maining in the school is not in the child's best interests;

5 (iv) To inquire regarding sibling placement. The department
6 shall document and the court shall inquire whether siblings were
7 placed together, or if siblings were not placed together, the
8 efforts made to place siblings together, the reasons why sib-
9 lings were not placed together, and a plan for ensuring frequent
10 visitation or ongoing interaction between the siblings, unless
11 visitation or ongoing interaction would be contrary to the safety
12 or well-being of one (1) or more of the siblings;

13 (v) To inquire regarding permanency. The court shall ask each
14 youth age twelve (12) years and older about his desired permanency
15 outcome and discuss with the youth his current permanency plan.
16 For a youth age fourteen (14) years and older, the hearing shall
17 include a review of the services needed to assist the youth to make
18 the transition from foster care to successful adulthood;

19 (vi) To document efforts related to the reasonable and prudent
20 parent standard. For a youth whose permanency goal is another
21 planned permanent living arrangement, the department shall docu-
22 ment:

23 1. That the youth's foster parents or child care institution
24 is following the reasonable and prudent parent standard when
25 deciding whether the child may participate in extracurricu-
26 lar, enrichment, cultural and social activities; and

27 2. The regular, ongoing opportunities to engage in age or
28 developmentally appropriate activities that have been pro-
29 vided to the youth;

30 (vii) To document efforts made to find a permanent placement other
31 than another planned permanent living arrangement. For a youth
32 whose permanency goal is another planned permanent living ar-
33 rangement, the department shall document:

34 1. The intensive, ongoing, and as of the date of the hearing,
35 unsuccessful efforts made to place the youth with a parent,
36 in an adoptive placement, in a guardianship, or in the legal
37 custody of the department in a placement with a fit and will-
38 ing relative, including an adult sibling; and

39 2. Why another planned permanent living arrangement is the
40 best permanency plan for the youth and a compelling reason
41 why, as of the date of the review hearing, it would not be in
42 the best interest of the child to be placed permanently with
43 a parent, in an adoptive placement, in a guardianship, or in
44 the legal custody of the department in a placement with a fit
45 and willing relative, including an adult sibling;

46 (viii) To make findings regarding a permanency goal of another
47 planned permanent living arrangement. For youth whose permanency
48 goal is another planned permanent living arrangement, the court
49 shall make written, case-specific findings, as of the date of the
50 hearing, that:

1 1. Another planned permanent living arrangement is the best
2 permanency goal for the youth; and

3 2. There are compelling reasons why it is not in the best in-
4 terest of the youth to be placed permanently with a parent,
5 in an adoptive placement, in a guardianship, or in the legal
6 custody of the department in a placement with a fit and will-
7 ing relative, including an adult sibling;

8 (ix) To document and inquire regarding psychotropic medication.
9 At each review hearing, if the child is being treated with psy-
10 chotropic medication, these additional requirements shall apply:

11 1. The department shall report to the court the medication
12 and dosage prescribed for the child, and the medical profes-
13 sional who prescribed the medication; and

14 2. The court shall inquire as to, and may make any additional
15 inquiry relevant to, the use of psychotropic medication; and

16 (x) To project, when reasonable, a likely date by which the child
17 may be safely returned to and maintained in the home or placed in
18 another permanent placement.

19 (b) A status hearing is a review hearing that does not address all or
20 most of the purposes identified in paragraph (a) of this subsection and
21 may be held at the discretion of the court. Neither the department nor
22 the guardian ad litem is required to file a report with the court prior
23 to a status hearing, unless ordered otherwise by the court.

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

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

37 (e) The department or authorized agency may move the court at any time
38 to vacate any order placing a child in its custody or under its protec-
39 tive supervision.

40 (2) Permanency plan and hearing.

41 (a) The permanency plan shall include a permanency goal. The per-
42 manency goal may be one (1) of the following: continued efforts at
43 reunification, in the absence of a judicial determination of aggra-
44 vated circumstances; or termination of parental rights and adoption,
45 guardianship or, for youth age sixteen (16) years and older only, an-
46 other planned permanent living arrangement. Every permanency plan
47 shall include the information set forth in section 16-1621(3) (a), Idaho
48 Code. If the permanency plan has reunification as a permanency goal,
49 the plan shall include information set forth in section 16-1621(3) (c),
50 Idaho Code; however, if the circumstances that caused the child to be

1 placed into protective custody resulted in a conviction for lewd and
2 lascivious conduct or felony injury to a child, if the child has been
3 in protective custody for more than six (6) months, or if a high risk
4 of repeat maltreatment or reentry into foster care exists due to a
5 parent's recent completion of substance abuse treatment or other com-
6 pelling circumstances, then the permanency plan shall include a period
7 of protective supervision or trial home visit period of no less than
8 ninety (90) days prior to the court vacating the case. During the pro-
9 tective supervision or trial home visit period, the department shall
10 make regular home visits. During the protective supervision or trial
11 home visit period, the court shall hold one (1) or more review hearings
12 for each permanency plan where a period of protective supervision or
13 a trial home visit has been imposed and may require participation in
14 supportive services including community home visiting and peer-to-peer
15 mentoring. Families reunified following a period of protective super-
16 vision or a trial home visit should be encouraged by the department or
17 the court to continue to participate in supportive services when ben-
18 efiticial and appropriate. If the permanency plan has a permanency goal
19 other than reunification, the plan shall include the information set
20 forth in section 16-1621(3)(d), Idaho Code, and, if the permanency goal
21 is termination of parental rights and adoption, then in addition to the
22 information set forth in section 16-1620(3), Idaho Code, the permanency
23 plan shall also name the proposed adoptive parents when known. If the
24 adoptive parents are not known at the time the permanency plan is pre-
25 pared, then the department shall amend the plan to name the proposed
26 adoptive parents as soon as such person or persons become known. The
27 court may approve a permanency plan that includes a primary goal and a
28 concurrent goal. As used in this paragraph, "trial home visit" means
29 that a child is returned to the care of the parent or guardian from whom
30 the child was removed with the department continuing to have legal cus-
31 tody of the child.

32 (b) A permanency hearing shall be held no later than twelve (12) months
33 from the date the child is removed from the home or the date of the
34 court's order taking jurisdiction under this chapter, whichever occurs
35 first, and at least every twelve (12) months thereafter, ~~so~~ as long as
36 the court has jurisdiction over the child. The court shall approve, re-
37 ject or modify the permanency plan of the department and review progress
38 in accomplishing the permanency goal. A permanency hearing may be held
39 at any time and may be combined with the review hearing required under
40 subsection (1) of this section.

41 (c) The court shall make written, case-specific findings whether the
42 department made reasonable efforts to finalize the primary permanency
43 goal in effect for the child. Lack of reasonable efforts to reunify may
44 be a basis for an order approving a permanency plan with a permanency
45 goal of reunification.

46 (d) Where the permanency goal is not reunification, the hearing shall
47 include a review of the department's consideration of options for
48 in-state and out-of-state placement of the child. In the case of a
49 child in an out-of-state placement, the court shall determine whether

1 the out-of-state placement continues to be appropriate and in the best
2 interest of the child.

3 (e) The court shall ask each youth age twelve (12) years and older about
4 his desired permanency outcome and discuss with the youth his current
5 permanency plan. In the case of a child who has attained the age of four-
6 teen (14) years and older, the hearing shall include a determination of
7 the services needed to assist the youth to make the transition from fos-
8 ter care to successful adulthood.

9 (f) The court may approve a primary permanency goal of another planned
10 permanent living arrangement only for youth age sixteen (16) years or
11 older and only upon written, case-specific findings that, as of the date
12 of the hearing:

13 (i) Another planned permanent living arrangement is the best per-
14 manency goal for the youth; and

15 (ii) There are compelling reasons why it is not in the best inter-
16 est of the youth to be placed permanently with a parent, in an adop-
17 tive placement, in a guardianship or in the legal custody of the
18 department in a placement with a fit and willing relative, includ-
19 ing an adult sibling.

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

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

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

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

29 (h) The department shall document and the court shall inquire:

30 (i) As to the efforts made to ensure educational stability for the
31 child, including the efforts made to keep the child in the school
32 in which the child is enrolled at the time of placement or that re-
33 maining in the school is not in the child's best interests; and

34 (ii) That siblings were placed together, or, if siblings were not
35 placed together, the efforts made to place siblings together, the
36 reasons why siblings were not placed together or why a joint place-
37 ment would be contrary to the safety or well-being of one (1) or
38 more of the siblings, and a plan for ensuring frequent visitation
39 or ongoing interaction among siblings, unless visitation or ongo-
40 ing interaction would be contrary to the safety or well-being of
41 one (1) or more of the siblings.

42 (i) If there is reason to ~~believe~~ know that the child is an Indian child
43 and there has not been a final determination regarding the child's
44 status as an Indian child, the department shall document and the court
45 shall:

46 (i) Inquire about the efforts that have been made since the last
47 hearing to determine whether the child is an Indian child; and

48 (ii) Determine that the department has made active efforts to work
49 with all tribes of which the child may be a member to verify whether
50 the child is a member or eligible for membership.

1 (j) At each permanency hearing, if the child is being treated with psy-
2 chotropic medication, these additional requirements shall apply:

3 (i) The department shall report to the court the medication and
4 dosage prescribed for the child, and the medical professional who
5 prescribed the medication; and

6 (ii) The court shall inquire as to, and may make any additional
7 inquiry relevant to, the use of psychotropic medication.

8 (k) The court may authorize the department to suspend further efforts
9 to reunify the child with the child's parent, pending further order of
10 the court, when a permanency plan is approved by the court and the perma-
11 nency plan does not include a permanency goal of reunification.

12 (3) If a youth is in the legal custody of the department or other autho-
13 rized agency and is within ninety (90) days of his eighteenth birthday, the
14 department shall file a report with the court that includes the department's
15 transition plan for the youth. The court shall have a review or permanency
16 hearing at which the court shall:

17 (a) Discuss with the youth his or her transition plan; and

18 (b) Review the transition plan with the youth for purposes of ensur-
19 ing that the plan provides the services necessary to allow the youth to
20 transition to a successful adulthood.