



### IDAHO'S CHILD PROTECTION SYSTEM

Child Protective Act

A Balance of Parents Rights and the Right of Children to be Protected



---

---

---

---

---


---

---

---

### IDAHO'S PROMISE TO CHILDREN

State Jurisdiction If:



1. Neglected
2. Abused
3. Abandoned
4. Homeless
5. Parents or legal custodian fails to provide a stable home environment.
6. Another child in same household or visitation (risk)

Section 16-1603, Idaho Code, 1 TO 5 Defined in Section 16-1602, Idaho Code



---

---

---

---


---

---

---

---

### PARENTS' RIGHTS



1. "[N]or shall any state deprive any person of life, liberty or property without due process of law."  
United States Constitution, Amendment XIV, Section 1
2. Fit parents have a right to the companionship, care, custody and management of their children.  
Stanley v. Illinois, 405 US 649, 651 (1972)
3. Due process requires that a parent is entitled to a hearing on his/her fitness before his/her children are taken from him/her.  
Stanley V. Illinois, 405 US 645, 649 (1972)



---

---

---

---

---

---

---

---

### HOW SHOULD THE STATE RESPOND?

Section 16-1601 Idaho Code (Policy)

"...establishment of a legal framework conducive to the judicial processing, including periodic review of child abuse, abandonment and neglect cases, and the protection of any child whose life, health or welfare is endangered. At all times, the health and safety of the child shall be the primary concern. Each child coming within the purview of this chapter shall receive, preferably in his own home, the care, guidance and control that will promote his welfare and the best interest of the state of Idaho, and if he is removed from the control of one (1) or more of his parents, guardian or other custodian, the state shall secure adequate care for him; provided, however, that the state of Idaho shall, to the fullest extent possible, seek to preserve, protect, enhance and reunite the family relationship."



---

---

---

---

---

---

---

---

### Directions to the Court

Section 16-1603 Idaho Code

- 1) At all times, the health and safety of the child shall be the primary concern.
- 2) Preserve the privacy and unity of the family whenever possible;
- 3) Take such actions as may be necessary and feasible to prevent the abuse, neglect, abandonment or homelessness of children;
- 4) Take such actions as may be necessary to provide the child with permanency including concurrent planning;
- 5) Clarify for the purposes of this act the rights and responsibilities of parents with joint legal or joint physical custody of children at risk; and
- 6) Maintain sibling bonds by placing siblings in the same home when possible, and support or facilitate sibling visitation when not, unless such contact is not in the best interest of one (1) or more of the children.



---

---

---

---

---

---

---

---

### IDAHO MANDATORY REPORTING

- Physician
- Hospital staff
- Intern
- Nurse
- School teacher
- Day care
- Social Worker
- Other person having reason to believe



Section 16-1605 Idaho Code



---

---

---

---

---

---

---

---

**IDAHO DEPARTMENT OF HEALTH AND WELFARE (IDHW)  
INVESTIGATES**

**OPTIONS**

1. Do nothing, unsubstantiated claim
2. Informally work with family and make referrals
3. Create a written plan with the family
4. File a CP petition and wait for adjudicatory hearing
5. File a CP petition and ask court for an order removing the child (child is unsafe)



---

---

---

---

---

---

---

---

**REMOVAL BY PEACE OFFICER**

- DUI (many times with kids in car)
- Substance abuse arrest
- Warrant for arrest (often failure to appear for court)
- Child wandering in the street
- Sex abuse allegation and investigation
- Parent involving child in their crimes
- Parent goes on vacation, leaves child unsupervised
- Substitute caretaker quits, drops off child
- Chronic neglect, officer won't leave child in home
- Child born under the influence, officer declares



---

---

---

---

---

---

---

---

**TEMPORARY SHELTER CARE**

**Court Options and Findings**

- Petition filed by prosecutor or deputy attorney general, reasonable cause for jurisdiction?
- IDHW made reasonable efforts to avoid shelter care?
- Temporary custody of one parent?
- Contrary to welfare to remain in home?
- Best interests to be in shelter care?
- Would a "protective order" allow a child to return home safely?



---

---

---

---

---

---

---

---

### ADJUDICATORY HEARING

- 30 days after filing
- Preponderance of the evidence for jurisdiction
- If jurisdiction disposition decided:
  - Legal custody with IDHW
  - Protective supervision by IDHW
    - ..Court order of conditions to keep child safe
    - ..Removal and/or no contact orders




---

---

---

---

---

---

---

---

### PLANNING HEARING

#### PARENT PLAN

- Reunification
- Treatment
- Skills
- Lifestyle
- Support
- Housing

#### CHILD PLAN

- Health
- Treatment
- Education
- Sibling groups
- Family connections
- Visitation-Home Visits




---

---

---

---

---

---

---

---

### REVIEW HEARING

#### REVIEW 6 MONTHS

- Full review of the case
- Reunification efforts
- Case closure efforts
- Plan changes, if needed
- Wellbeing of child
- Permanency progress

#### STATUS, AS NEEDED

- Keep case moving
- Engagement of parent
- Services needed
- Motivational hearing
- Limited issues




---

---

---

---

---

---

---

---

**PERMANENCY HEARING 12 MO.**

<p><b>PERMANENCY GOAL</b></p> <ul style="list-style-type: none"> <li>• Reunification</li> <li>• Case closure</li> </ul>	<p><b>CONCURRENT GOAL</b></p> <ul style="list-style-type: none"> <li>• Termination</li> <li>• Adoption</li> <li>• Guardianship</li> <li>• APPLA (Another Planned Permanent Living Arrangement)</li> </ul>
---	---




---

---

---

---

---


---

---

---

**TERMINATION**

- IDHW has custody and may file at anytime
- IDHW must file when:
  - 15 of last 22 months child is in IDHW custody
  - 30 days after permanency plan of termination
  - 30 days after court rules infant abandoned
  - 30 days after finding of aggravated circumstances
- Or a finding of compelling reasons termination is not in the best interest of child.




---

---

---

---

---


---

---

---

**TERMINATION TRIAL**

- Title 16 Chapter 20 Idaho code
- Clear and Convincing Evidence
  - Abandoned
  - Neglected or abused
  - Not the biological parent
  - Unable to parent for prolonged time
  - Remaining incarcerated
  - Best interest of child




---

---

---

---

---

---

---

---



### APPEALS

- Idaho Appellate Rule 11.1
- Direct expedited appeal to the Idaho Supreme Court
- Saves between one and two years for child
- Need for court reporters to create a record on appeal




---

---

---

---

---

---

---

---

### TIME IS CRITICAL

- To the child
- To the parents
- To the courts
- To IDHW
- To the foster parents




---

---

---

---

---

---

---

---

### CLOSED RECORD AND HEARINGS

A court shall not disclose any of the contents of a case file of any action brought under the Juvenile Corrections Act or the Child Protective Act, nor other records of such proceedings, except as authorized under Rule 32 of the Idaho Court Administrative Rules and Section 16-1626, Idaho Code (addressing the disclosure of judicial records.)




---

---

---

---

---

---

---

---

**FAMILY FIRST PREVENTION  
SERVICES ACT 2018**

- The entire community is responsible for well-being of children and families
- IV-E funding to IDHW for prevention
- Challenges and opportunities
- Children should be protected whenever possible within their own homes, communities and cultures.
- Requires interagency collaboration and the engagement of child- and family-serving agencies from the public, private, and faith-based sectors.



---

---

---

---

---

---

---

---

