

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 336

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO JUVENILES; AMENDING SECTION 16-1602, IDAHO CODE, TO DEFINE TERMS  
2 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1604, IDAHO  
3 CODE, TO PROVIDE FOR RETENTION OF JURISDICTION UNDER CERTAIN CIRCUM-  
4 STANCES; AMENDING SECTION 16-1619, IDAHO CODE, TO REVISE PROVISIONS  
5 REGARDING ADJUDICATORY HEARINGS; AMENDING CHAPTER 16, TITLE 16, IDAHO  
6 CODE, BY THE ADDITION OF A NEW SECTION 16-1619A, IDAHO CODE, TO ESTAB-  
7 LISH PROVISIONS REGARDING PLACEMENT OF CERTAIN CHILDREN IN QUALIFIED  
8 RESIDENTIAL TREATMENT PROGRAMS; AMENDING SECTION 16-1620, IDAHO CODE,  
9 TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE SHALL DOCUMENT  
10 CERTAIN INFORMATION AT HEARINGS REGARDING CHILDREN PLACED IN QUALI-  
11 FIED RESIDENTIAL TREATMENT PROGRAMS AND TO MAKE TECHNICAL CORRECTIONS;  
12 AMENDING SECTION 16-1621, IDAHO CODE, TO PROVIDE THAT A CASE PLAN FOR A  
13 CHILD PLACED IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM SHALL INCLUDE  
14 AN ASSESSMENT REPORT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING  
15 SECTION 16-1622, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO PROVIDE  
16 THAT A PERMANENCY PLAN SHALL BE ENTERED INTO A CERTAIN RECORD, TO PRO-  
17 VIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE SHALL DOCUMENT CERTAIN  
18 INFORMATION AT HEARINGS REGARDING CHILDREN PLACED IN QUALIFIED RESI-  
19 DENTIAL TREATMENT PROGRAMS, TO PROVIDE FOR AN EXTENSION OF FOSTER CARE  
20 UNDER CERTAIN CIRCUMSTANCES, AND TO MAKE TECHNICAL CORRECTIONS.  
21

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

23 SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 16-1602. DEFINITIONS. For purposes of this chapter:  
26 (1) "Abused" means any case in which a child has been the victim of:  
27 (a) Conduct or omission resulting in skin bruising, bleeding, mal-  
28 nutrition, burns, fracture of any bone, head injury, soft tissue  
29 swelling, failure to thrive or death, and such condition or death is not  
30 justifiably explained, or where the history given concerning such con-  
31 dition or death is at variance with the degree or type of such condition  
32 or death, or the circumstances indicate that such condition or death may  
33 not be the product of an accidental occurrence; or  
34 (b) Sexual conduct, including rape, molestation, incest, prostitu-  
35 tion, obscene or pornographic photographing, filming or depiction for  
36 commercial purposes, human trafficking as defined in section 18-8602,  
37 Idaho Code, or other similar forms of sexual exploitation harming or  
38 threatening the child's health or welfare or mental injury to the child.  
39 (2) "Abandoned" means the failure of the parent to maintain a normal  
40 parental relationship with his child including, but not limited to, reason-  
41 able support or regular personal contact. Failure to maintain this rela-

1 tionship without just cause for a period of one (1) year shall constitute  
2 prima facie evidence of abandonment.

3 (3) "Adaptive equipment" means any piece of equipment or any item that  
4 is used to increase, maintain or improve the parenting capabilities of a par-  
5 ent with a disability.

6 (4) "Adjudicatory hearing" means a hearing to determine:

7 (a) Whether the child comes under the jurisdiction of the court pur-  
8 suant to the provisions of this chapter;

9 (b) Whether continuation of the child in the home would be contrary to  
10 the child's welfare and whether the best interest of the child requires  
11 protective supervision or vesting legal custody of the child in an au-  
12 thorized agency.

13 (5) "Age of developmentally appropriate" means:

14 (a) Activities that are generally accepted as suitable for children of  
15 the same chronological age or level of maturity or that are determined  
16 to be developmentally appropriate for a child, based on the development  
17 of cognitive, emotional, physical and behavioral capacities that are  
18 typical for an age or age group; and

19 (b) In the case of a specific child, activities or items that are suit-  
20 able for the child based on the developmental stages attained by the  
21 child with respect to the cognitive, emotional, physical and behavioral  
22 capacities of the child.

23 (6) "Aggravated circumstances" includes, but is not limited to:

24 (a) Circumstances in which the parent has engaged in any of the follow-  
25 ing:

26 (i) Abandonment, chronic abuse or chronic neglect of the child.  
27 Chronic neglect or chronic abuse of a child shall consist of abuse  
28 or neglect that is so extreme or repetitious as to indicate that  
29 return of the child to the home would result in unacceptable risk  
30 to the health and welfare of the child.

31 (ii) Sexual abuse against a child of the parent. Sexual abuse, for  
32 the purposes of this section, includes any conduct described in  
33 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,  
34 18-6608 or 18-8602, Idaho Code.

35 (iii) Torture of a child; ~~any.~~ Any conduct listed in section  
36 18-8303(1), Idaho Code; battery or an injury to a child that re-  
37 sults in serious or great bodily injury to a child; voluntary  
38 manslaughter of a child, or aiding or abetting such voluntary  
39 manslaughter, soliciting such voluntary manslaughter or attempt-  
40 ing or conspiring to commit such voluntary manslaughter;

41 (b) The parent has committed murder, aided or abetted a murder, so-  
42 licited a murder or attempted or conspired to commit murder; or

43 (c) The parental rights of the parent to another child have been termi-  
44 nated involuntarily.

45 (7) "Authorized agency" means the department, a local agency, a person,  
46 an organization, corporation, benevolent society or association licensed  
47 or approved by the department or the court to receive children for control,  
48 care, maintenance or placement.

1 (8) "Caregiver" means a foster parent with whom a child in foster care  
2 has been placed or a designated official for a child care institution in  
3 which a child in foster care has been placed.

4 (9) "Case plan hearing" means a hearing to approve, modify or reject the  
5 case plan as provided in section 16-1621, Idaho Code.

6 (10) "Child" means an individual who is under the age of eighteen (18)  
7 years.

8 (11) "Child advocacy center" or "CAC" means an organization that ad-  
9 heres to national best practice standards established by the national  
10 membership and accrediting body for children's advocacy centers and that  
11 promotes a comprehensive and coordinated multidisciplinary team response to  
12 allegations of child abuse by maintaining a child-friendly facility at which  
13 appropriate services are provided. These services may include forensic in-  
14 terviews, forensic medical examinations, mental health services and other  
15 related victim services.

16 (12) "Circumstances of the child" includes, but is not limited to, the  
17 joint legal custody or joint physical custody of the child.

18 (13) "Commit" means to transfer legal and physical custody.

19 (14) "Concurrent planning" means a planning model that prepares for and  
20 implements different outcomes at the same time.

21 (15) "Court" means district court or magistrate's division thereof, or,  
22 if the context requires, a magistrate or judge thereof.

23 (16) "Custodian" means a person, other than a parent or legal guardian,  
24 to whom legal or joint legal custody of the child has been given by court or-  
25 der.

26 (17) "Department" means the department of health and welfare and its au-  
27 thorized representatives.

28 (18) "Disability" means, with respect to an individual, any mental  
29 or physical impairment that substantially limits one (1) or more major  
30 life ~~activity~~ activities of the individual including, but not limited to,  
31 self-care, manual tasks, walking, seeing, hearing, speaking, learning or  
32 working, or a record of such an impairment, or being regarded as having such  
33 an impairment. Disability shall not include transvestism, transsexualism,  
34 pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or  
35 substance use disorders, compulsive gambling, kleptomania or pyromania.  
36 Sexual preference or orientation is not considered an impairment or disabili-  
37 ty. Whether an impairment substantially limits a major life activity shall  
38 be determined without consideration of the effect of corrective or mitigat-  
39 ing measures used to reduce the effects of the impairment.

40 (19) "Family or household member" shall have the same meaning as in sec-  
41 tion 39-6303(6), Idaho Code.

42 (20) "Foster care" means twenty-four (24) hour substitute parental care  
43 for children placed away from their parents or guardians by persons who may  
44 or may not be related to the children and for whom the state agency has place-  
45 ment and care responsibility.

46 (21) "Foster parent" means a person or persons licensed to provide fos-  
47 ter care.

48 (22) "Grant administrator" means the supreme court or any organization  
49 or agency as may be designated by the supreme court in accordance with such  
50 procedures as may be adopted by the supreme court. The grant administrator

1 shall administer funds from the guardian ad litem account in accordance with  
2 the provisions of this chapter.

3 (23) "Guardian ad litem" means a person appointed by the court pursuant  
4 to a guardian ad litem volunteer program to act as special advocate for a  
5 child under this chapter.

6 (24) "Guardian ad litem coordinator" means a person or entity receiving  
7 moneys from the grant administrator for the purpose of carrying out any of  
8 the duties set forth in section 16-1632, Idaho Code.

9 (25) "Guardian ad litem program" means the program to recruit, train and  
10 coordinate volunteer persons to serve as guardians ad litem for abused, ne-  
11 glected or abandoned children.

12 (26) "Homeless," as used in this chapter, shall mean that the child is  
13 without adequate shelter or other living facilities, and the lack of such  
14 shelter or other living facilities poses a threat to the health, safety or  
15 well-being of the child.

16 (27) "Idaho network of children's advocacy centers" means an organiza-  
17 tion that provides education and technical assistance to child advocacy cen-  
18 ters and to interagency multidisciplinary teams developed pursuant to sec-  
19 tion 16-1617, Idaho Code.

20 (28) "Law enforcement agency" means a city police department, the pros-  
21 ecuting attorney of any county, state law enforcement officers, or the of-  
22 fice of a sheriff of any county.

23 (29) "Legal custody" means a relationship created by court order, which  
24 vests in a custodian the following rights and responsibilities:

25 (a) To have physical custody and control of the child, and to determine  
26 where and with whom the child shall live.

27 (b) To supply the child with food, clothing, shelter and incidental ne-  
28 cessities.

29 (c) To provide the child with care, education and discipline.

30 (d) To authorize ordinary medical, dental, psychiatric, psychologi-  
31 cal, or other remedial care and treatment for the child, including care  
32 and treatment in a facility with a program of services for children, and  
33 to authorize surgery if the surgery is deemed by two (2) physicians li-  
34 censed to practice in this state to be necessary for the child.

35 (e) Where the parents share legal custody, the custodian may be vested  
36 with the custody previously held by either or both parents.

37 (30) "Mental injury" means a substantial impairment in the intellectual  
38 or psychological ability of a child to function within a normal range of per-  
39 formance and/or behavior, for short or long terms.

40 (31) "Neglected" means a child:

41 (a) Who is without proper parental care and control, or subsistence,  
42 medical or other care or control necessary for his well-being because of  
43 the conduct or omission of his parents, guardian or other custodian or  
44 their neglect or refusal to provide them; however, no child whose parent  
45 or guardian chooses for such child treatment by prayers through spiri-  
46 tual means alone in lieu of medical treatment shall be deemed for that  
47 reason alone to be neglected or lack parental care necessary for his  
48 health and well-being, but this subsection shall not prevent the court  
49 from acting pursuant to section 16-1627, Idaho Code; or

1 (b) Whose parents, guardian or other custodian ~~are~~ is unable to dis-  
2 charge ~~their~~ the responsibilities to and for the child and, as a result  
3 of such inability, the child lacks the parental care necessary for his  
4 health, safety or well-being; or

5 (c) Who has been placed for care or adoption in violation of law; or

6 (d) Who is without proper education because of the failure to comply  
7 with section 33-202, Idaho Code.

8 (32) "Permanency hearing" means a hearing to review, approve, reject or  
9 modify the permanency plan of the department, ~~and~~ to review reasonable ef-  
10 forts in accomplishing the permanency plan.

11 (33) "Permanency plan" means a plan for a continuous residence and main-  
12 tenance of nurturing relationships during the child's minority.

13 (34) "Protective order" means an order issued by the court in a child  
14 protection case, prior to the adjudicatory hearing, to enable the child to  
15 remain in the home pursuant to section 16-1615(8), Idaho Code, or following  
16 an adjudicatory hearing to preserve the unity of the family and to ensure the  
17 best interests of the child, ~~pursuant to section 16-1619(10), Idaho Code.~~  
18 Such an order shall be in the same form and have the same effect as a domes-  
19 tic violence protection order issued pursuant to chapter 63, title 39, Idaho  
20 Code. A protective order shall be for a period not to exceed three (3) months  
21 unless otherwise stated in the order.

22 (35) "Protective supervision" is a legal status created by court order  
23 in a child protective case whereby the child is in the legal custody of his or  
24 her parent(s), guardian(s) or other legal custodian(s), subject to supervi-  
25 sion by the department.

26 (36) "Psychotropic medication" means a drug prescribed to affect psy-  
27 chological functioning, perception, behavior or mood. Psychotropic medi-  
28 cations include, but are not limited to, antidepressants, mood stabilizers,  
29 antipsychotics, antianxiety medications, sedatives and stimulants.

30 (37) "Qualified individual" means a trained professional or licensed  
31 clinician who is not connected to or affiliated with any placement setting  
32 in which children are placed by the department and who is not an employee of  
33 child and family services, unless a waiver has been approved by the autho-  
34 rized agency.

35 (38) "Qualified residential treatment program" means a program that has  
36 a trauma-informed treatment model designed to address the needs of children  
37 with serious emotional or behavioral disorders or disturbances, is able to  
38 implement the treatment identified for the child by the assessment of the  
39 child required under section 16-1619A(2), Idaho Code, and is licensed and  
40 accredited in accordance with state and federal law.

41 (379) "Reasonable and prudent parent standard" means the standard of  
42 care characterized by careful and sensible parental decisions that main-  
43 tain the health, safety and best interests of a child while simultaneously  
44 encouraging the emotional and developmental growth of the child that a care-  
45 giver shall use when determining whether to allow a child in foster care  
46 under the responsibility of the state to participate in extracurricular,  
47 enrichment, cultural or social activities.

48 (3840) "Relative" means a child's grandparent, great grandparent,  
49 aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first  
50 cousin, sibling and half-sibling.

1           (3941) "Residual parental rights and responsibilities" means those  
2 rights and responsibilities remaining with the parents after the transfer of  
3 legal custody including, but not necessarily limited to, the right of visi-  
4 tation, the right to consent to adoption, the right to determine religious  
5 affiliation, the right to family counseling when beneficial, and the respon-  
6 sibility for support.

7           (402) "Shelter care" means places designated by the department for tem-  
8 porary care of children pending court disposition or placement.

9           (413) "Supportive services," as used in this chapter, shall mean ser-  
10 vices that assist parents with a disability to compensate for those aspects  
11 of their disability that affect their ability to care for their child and  
12 that will enable them to discharge their parental responsibilities. The  
13 term includes specialized or adapted training, evaluations or assistance  
14 with effectively using adaptive equipment and accommodations that allow  
15 parents with a disability to benefit from other services including, but not  
16 limited to, Braille texts or sign language interpreters.

17           SECTION 2. That Section 16-1604, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19           16-1604. RETENTION OF JURISDICTION. (1) Jurisdiction obtained by the  
20 court under this chapter shall be retained until the child's eighteenth  
21 birthday, unless terminated prior thereto or extended by the court pursuant  
22 to section 16-1622(5), Idaho Code. Jurisdiction of the court shall not be  
23 terminated by an order of termination of parental rights if guardianship  
24 and/or custody of the child is placed with the department of health and wel-  
25 fare.

26           (2) The parties have an ongoing duty to inquire concerning, and inform  
27 the court as soon as possible about, any other pending actions or current  
28 orders involving the child. In the event there are conflicting orders from  
29 Idaho courts concerning the child, the child protection order is control-  
30 ling.

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

33           16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDA-  
34 TION. (1) When a petition has been filed, the court shall set an adjudicatory  
35 hearing to be held no later than thirty (30) days after the filing of the  
36 petition.

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

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

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

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

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

12 (b) Vest legal custody in the department or other authorized agency  
13 subject to residual parental rights and subject to full judicial re-  
14 view by the court and, when contested by any party, judicial approval  
15 of all matters relating to the custody of the child by the department  
16 or other authorized agency. If the department has placed the child in  
17 a qualified residential treatment program, the court shall approve or  
18 disapprove the placement within sixty (60) days of placement in accor-  
19 dance with section 16-1619A, Idaho Code.

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

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

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

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

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

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

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

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

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

49 (b) In addition, if the court vests legal custody of the child in the  
50 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 4. That Chapter 16, Title 16, Idaho Code, be, and the same is  
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
12 ignated as Section 16-1619A, Idaho Code, and to read as follows:

13 16-1619A. PLACEMENT OF A CHILD IN A QUALIFIED RESIDENTIAL TREATMENT  
14 PROGRAM. (1) Where legal custody of a child is vested in the department,  
15 and the department places the child in a qualified residential treatment  
16 program, the department shall file a notice of the placement with the court  
17 within seven (7) days of the placement. The notice shall identify the place-  
18 ment and the date of the placement.

19 (2) Within thirty (30) days of the date of placement, a qualified indi-  
20 vidual shall conduct a placement assessment and prepare a written assessment  
21 report. The qualified individual shall:

22 (a) Assess the strengths and needs of the child using an age-appropri-  
23 ate, evidence-based, validated, and functional assessment tool;

24 (b) Determine whether the needs of the child can be met with family mem-  
25 bers or through placement in a foster family home or, if not, the spe-  
26 cialized setting that will provide the most effective and appropriate  
27 level of care for the child in the least restrictive environment and be  
28 consistent with the short-term and long-term goals for the child, as set  
29 forth in the case plan or permanency plan currently in effect;

30 (c) Develop a list of child-specific short-term and long-term mental  
31 and behavioral health goals;

32 (d) Work in conjunction with the family of, and the permanency team for,  
33 the child while conducting the assessment; and

34 (e) Prepare an assessment specifying:

35 (i) Why the needs of the child cannot be met by the family of the  
36 child or in a foster home; and

37 (ii) Why the recommended placement in a qualified residential  
38 treatment program is the setting that will provide the most effec-  
39 tive and appropriate level of care in the least restrictive envi-  
40 ronment and how that placement is consistent with the short-term  
41 and long-term goals for the child, as set forth in the case plan or  
42 the permanency plan currently in effect.

43 (3) The department shall prepare a written case plan for the child or  
44 amend the case plan if it has been previously ordered by the court and shall  
45 include the assessment report of the qualified individual.

46 (4) Within sixty (60) days of the start of each placement in a qualified  
47 residential treatment program, the court shall:

48 (a) Consider the assessment, determination, and documentation made by  
49 the qualified individual;

1 (b) Determine whether the needs of the child can be met through place-  
2 ment in a foster family home or, if not, whether placement in a quali-  
3 fied residential treatment program provides the most effective and ap-  
4 propriate level of care for the child in the least restrictive environ-  
5 ment and whether that placement is consistent with the short-term and  
6 long-term goals for the child, as specified in the permanency plan for  
7 the child; and

8 (c) Approve or disapprove the placement.

9 (5) The assessment by the qualified individual and the court's deter-  
10 mination to approve or disapprove the placement in a qualified residential  
11 treatment program shall be made part of the case plan for the child. If the  
12 court approves the placement in a qualified residential treatment program,  
13 the court shall order the amended case plan for the child.

14 SECTION 5. That Section 16-1620, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

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

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

33 (3) The permanency plan shall also:

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

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

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

43 (d) Specifically identify the actions necessary to implement the rec-  
44 ommended option;

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

47 (f) Address the options for maintaining the child's connection to the  
48 community, including individuals with a significant relationship to  
49 the child, and organizations or community activities with which the

1 child has a significant connection. This shall also include the efforts  
2 made to ensure educational stability for the child, the efforts to keep  
3 the child in the school in which the child is enrolled at the time of  
4 placement or the reasons why remaining in that school is not in the best  
5 interests of the child;

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

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

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

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

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

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

28 (ii) Why another planned permanent living arrangement is the best  
29 permanency plan for the youth and compelling reasons why, as of  
30 the date of the permanency hearing, it would not be in the best in-  
31 terests of the youth to be placed permanently with a parent, in an  
32 adoptive placement, in a guardianship, or in the legal custody of  
33 the department in a placement with a fit and willing relative, in-  
34 cluding an adult sibling;

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

40 (iv) The opportunities provided to the youth to engage in age-ap-  
41 propriate or developmentally appropriate activities;

42 (j) If there is reason to believe the child is an Indian child and there  
43 has been no final determination as to the child's status as an Indian  
44 child, document:

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

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

1 (k) Identify the prospective adoptive parents, if known; if the  
2 prospective adoptive parents are not known, the department shall amend  
3 the plan to name the proposed adoptive parents as soon as such persons  
4 become known.

5 (4) The court shall hold a permanency hearing to determine whether the  
6 best interests of the child ~~is~~ are served by adopting, rejecting or modifying  
7 the permanency plan proposed by the department. At each permanency hearing:

8 (a) For youth age twelve (12) years and older, unless good cause is  
9 shown, the court shall ask the youth about his desired permanency out-  
10 come and consult with the youth about ~~the youth's~~ his current permanency  
11 plan;

12 (b) If there is reason to believe that the child is an Indian child and  
13 there has not been a final determination regarding the child's status as  
14 an Indian child, the court shall:

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

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

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

22 (i) The department shall report to the court the medication and  
23 dosage prescribed for the child and the medical professional who  
24 prescribed the medication; and

25 (ii) The court shall inquire as to, and may make any additional  
26 inquiry relevant to, the use of psychotropic medication-; and

27 (d) If a child is in the legal custody of the department and the court  
28 has approved placement of the child in a qualified residential treat-  
29 ment program, then at each hearing pursuant to this section and each  
30 hearing held pursuant to section 16-1622, Idaho Code, the department  
31 shall document:

32 (i) That ongoing assessment of the strengths and needs of the  
33 child continues to support the determination that the needs of  
34 the child cannot be met through placement in a foster family home,  
35 that the placement in a qualified residential treatment program  
36 provides the most effective and appropriate level of care for the  
37 child that is in the least restrictive environment, and that the  
38 placement is consistent with the short- and long-term goals for  
39 the child, as specified in the permanency plan for the child;

40 (ii) The specific treatment or service needs that will be met for  
41 the child in the placement and the length of time the child is ex-  
42 pected to need the treatment or services; and

43 (iii) The efforts made by the department to prepare the child to  
44 return home or to be placed with a fit and willing relative, with  
45 a legal guardian, with an adoptive parent, or in a foster family  
46 home.

47 (5) Notice of the permanency hearing shall be provided to the parents  
48 and other legal guardians, prosecuting attorney or deputy attorney general,  
49 guardian ad litem, attorney for the child, the department and foster par-

1 ents; provided however, that foster parents are not thereby made parties to  
2 the child protective act action.

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

7 (7) For youth with a proposed or current permanency goal of another  
8 planned permanent living arrangement, at each permanency hearing the court  
9 shall make written, case-specific findings that as of the date of the perma-  
10 nency hearing another planned permanent living arrangement is the best per-  
11 manency plan for the youth and that there are compelling reasons why it is not  
12 in the youth's best interests to be placed permanently with a parent, in an  
13 adoptive placement, in a guardianship, or in the legal custody of the depart-  
14 ment in a placement with a fit and willing relative, including an adult sib-  
15 ling.

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

21 SECTION 6. That Section 16-1621, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 16-1621. CASE PLAN HEARING -- NO FINDING OF AGGRAVATED CIRCUM-  
24 STANCES. (1) In every case in which the child is determined to be within  
25 the jurisdiction of the court and there is no judicial determination that  
26 aggravated circumstances were present, the department shall prepare a writ-  
27 ten case plan, including cases in which the parent(s) is incarcerated. The  
28 court shall schedule a case plan hearing to be held within thirty (30) days  
29 after the adjudicatory hearing. The case plan shall be filed with the court  
30 no later than five (5) days prior to the case plan hearing. Copies of the  
31 case plan shall be delivered to the parents and other legal guardians, the  
32 prosecuting attorney or deputy attorney general, the guardian ad litem and  
33 attorney for the child.

34 (a) The court shall hold a case plan hearing to determine whether the  
35 best interests of the child ~~is~~ are served by adopting, rejecting or mod-  
36 ifying the case plan proposed by the department.

37 (b) If there is reason to believe that the child is an Indian child and  
38 there has not been a final determination regarding the child's status as  
39 an Indian child, the court shall:

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

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

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

48 (2) Notice of the case plan hearing shall be provided to the parents,  
49 and other legal guardians, the prosecuting attorney or deputy attorney gen-

1 eral, guardian ad litem, attorney for the child, the department, and foster  
2 parents. Although foster parents are provided notice of this hearing, they  
3 are not parties to the child protective act action.

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

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

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

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

21 (b) Address the options for maintaining the child's connection to the  
22 community:

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

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

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

32 ~~Document either~~ Either document that siblings were placed  
33 together or, if siblings were not placed together, document the  
34 efforts made to place the siblings together, the reasons why sib-  
35 lings were not placed together and a plan for ensuring frequent  
36 visitation or other ongoing interaction among siblings, unless  
37 visitation or ongoing interaction would be contrary to the safety  
38 or well-being of one (1) or more of the siblings; and

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

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

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

47 (c) Include a goal of reunification and a plan for achieving that  
48 goal. The reunification plan shall identify all issues that need to  
49 be addressed before the child can safely be returned home without de-  
50 partment supervision. The court may specifically identify issues to

1 be addressed by the plan. The reunification plan shall specifically  
2 identify the tasks to be completed by the department, each parent or  
3 others to address each issue, including services to be made available  
4 by the department to the parents and in which the parents are required  
5 to participate, and deadlines for completion of each task. The case  
6 plan shall state with specificity the role of the department toward each  
7 parent. When appropriate, the reunification plan should identify terms  
8 for visitation, supervision of visitation and child support;

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

14 (i) Address all options for permanent placement of the child,  
15 including consideration of options for in-state and out-of-state  
16 placement of the child;

17 (ii) Address the advantages and disadvantages of each option and  
18 include a recommendation as to which option is in the child's best  
19 interests;

20 (iii) Specifically identify the actions necessary to implement  
21 the recommended option;

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

24 (v) Address options for maintaining the child's connection to  
25 the community, including individuals with a significant relation-  
26 ship to the child and organizations or community activities with  
27 which the child has a significant connection;

28 (vi) Identify the names of the proposed adoptive parents when  
29 known if the permanency goal is termination of parental rights and  
30 adoption;

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

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

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

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

48 3. The steps taken by the department to ensure that the  
49 youth's foster parents or child care institution are following  
50 the reasonable and prudent parent standard when making

1 decisions about whether the youth can engage in extracurric-  
2 ular, enrichment, cultural and social activities; and

3 4. The opportunities provided to the youth to regularly en-  
4 gage in age-appropriate or developmentally appropriate ac-  
5 tivities; and

6 (ix) Identify further investigation necessary to identify or as-  
7 sess other options for permanent placement, to identify actions  
8 necessary to implement the recommended placement or to identify  
9 options for maintaining the child's significant connections.

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

12 (a) Identify the services to be provided to the child, including ser-  
13 vices to identify and meet any educational, emotional, physical or de-  
14 velopmental needs the child may have, and to assist the child in adjust-  
15 ing to the placement or to ensure the stability of the placement. For  
16 youth age fourteen (14) years and older, identify the services needed  
17 to assist the youth in making the transition to successful adulthood  
18 and document the youth's rights in regard to ~~his~~ education and health,  
19 visitation, court participation and receipt of an annual credit report,  
20 including a signed acknowledgment by the department that the youth  
21 was provided with a written copy of ~~his~~ the youth's rights and that the  
22 rights were explained to the youth in an age-appropriate or developmen-  
23 tally appropriate manner. The plan shall also address options for main-  
24 taining the child's connection to the community, including individuals  
25 with a significant relationship to the child and organizations or com-  
26 munity activities with 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) If the child is placed in a qualified residential treatment pro-  
37 gram, then the case plan shall include the assessment report of the qualified  
38 individual.

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

48 SECTION 7. That Section 16-1622, Idaho Code, be, and the same is hereby  
49 amended to read as follows:



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

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

9 (i) To determine:

- 10 1. The safety of the child;  
11 2. The continuing necessity for and appropriateness of the  
12 placement;  
13 3. The extent of compliance with the case plan; and  
14 4. The extent of progress that has been made toward alle-  
15 viating or mitigating the causes necessitating placement in  
16 foster care;

17 (ii) To determine or continue to investigate whether the child is  
18 an Indian child. If there is reason to believe that the child is an  
19 Indian child and there has not been a final determination regard-  
20 ing the child's status as an Indian child:

- 21 1. The department shall document and the court shall inquire  
22 about the efforts that have been made since the last hearing  
23 to determine whether the child is an Indian child; and  
24 2. The department shall document and the court shall de-  
25 termine that the department is using active efforts to work  
26 with all tribes of which the child may be a member to verify  
27 whether the child is a member or eligible for membership;

28 (iii) To inquire regarding the child's educational stability. The  
29 department shall document and the court shall inquire as to the ef-  
30 forts made to ensure educational stability for the child, includ-  
31 ing the efforts made to keep the child in the school in which the  
32 child is enrolled at the time of placement or the reason that re-  
33 maining in the school is not in the child's best interests;

34 (iv) To inquire regarding sibling placement. The department  
35 shall document and the court shall inquire whether siblings were  
36 placed together, or, if siblings were not placed together, the  
37 efforts made to place siblings together, the reasons why sib-  
38 lings were not placed together, and a plan for ensuring frequent  
39 visitation or ongoing interaction between the siblings, unless  
40 visitation or ongoing interaction would be contrary to the safety  
41 or well-being of one (1) or more of the siblings;

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

48 (vi) To document efforts related to the reasonable and prudent  
49 parent standard. For a youth whose permanency goal is another

1 planned permanent living arrangement, the department shall docu-  
2 ment:

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

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

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

14 1. The intensive, ongoing, and, as of the date of the hear-  
15 ing, unsuccessful efforts made to place the youth with a par-  
16 ent, in an adoptive placement, in a guardianship, or in the  
17 legal custody of the department in a placement with a fit and  
18 willing relative, including an adult sibling; and

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

26 (viii) To make findings regarding a permanency goal of another  
27 planned permanent living arrangement. For youth whose permanency  
28 goal is another planned permanent living arrangement, the court  
29 shall make written, case-specific findings, as of the date of the  
30 hearing, that:

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

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

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

41 1. The department shall report to the court the medication  
42 and dosage prescribed for the child, and the medical profes-  
43 sional who prescribed the medication; and

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

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

49 (b) A status hearing is a review hearing that does not address all or  
50 most of the purposes identified in paragraph (a) of this subsection and

1 may be held at the discretion of the court. Neither the department nor  
2 the guardian ad litem is required to file a report with the court prior  
3 to a status hearing, unless ordered otherwise by the court.

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

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

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

20 (2) Permanency plan and hearing.

21 (a) The permanency plan shall include a permanency goal. The per-  
22 manency goal may be one (1) of the following: continued efforts at  
23 reunification, in the absence of a judicial determination of aggra-  
24 vated circumstances; or termination of parental rights and adoption,  
25 guardianship or, for youth age sixteen (16) years and older only, an-  
26 other planned permanent living arrangement. Every permanency plan  
27 shall include the information set forth in section 16-1621(3)(a) and  
28 (b), Idaho Code. If the permanency plan has reunification as a per-  
29 manency goal, the plan shall include information set forth in section  
30 16-1621(3)(c), Idaho Code; however, if the circumstances that caused  
31 the child to be placed into protective custody resulted in a conviction  
32 for lewd and lascivious conduct or felony injury to a child, if the child  
33 has been in protective custody for more than six (6) months, or if a  
34 high risk of repeat maltreatment or reentry into foster care exists due  
35 to a parent's recent completion of substance abuse treatment or other  
36 compelling circumstances, then the permanency plan shall include a  
37 period of protective supervision or trial home visit period of no less  
38 than ninety (90) days prior to the court vacating the case. During the  
39 protective supervision or trial home visit period, the department shall  
40 make regular home visits. During the protective supervision or trial  
41 home visit period, the court shall hold one (1) or more review hearings  
42 for each permanency plan where a period of protective supervision or a  
43 trial home visit has been imposed and may require participation in sup-  
44 portive services, including community home visiting and peer-to-peer  
45 mentoring. Families reunified following a period of protective super-  
46 vision or a trial home visit should be encouraged by the department or  
47 the court to continue to participate in supportive services when ben-  
48 efiticial and appropriate. If the permanency plan has a permanency goal  
49 other than reunification, the plan shall include the information set  
50 forth in section 16-1621(3)(d), Idaho Code, and, if the permanency goal

1 is termination of parental rights and adoption, then in addition to the  
2 information set forth in section 16-1620(3), Idaho Code, the permanency  
3 plan shall also name the proposed adoptive parents when known. If the  
4 adoptive parents are not known at the time the permanency plan is pre-  
5 pared, then the department shall amend the plan to name the proposed  
6 adoptive parents as soon as such person or persons become known. The  
7 court may approve a permanency plan that includes a primary goal and a  
8 concurrent goal. As used in this paragraph, "trial home visit" means  
9 that a child is returned to the care of the parent or guardian from whom  
10 the child was removed with the department continuing to have legal cus-  
11 tody of the child.

12 (b) A permanency hearing shall be held no later than twelve (12) months  
13 from the date the child is removed from the home or the date of the  
14 court's order taking jurisdiction under this chapter, whichever occurs  
15 first, and at least every twelve (12) months thereafter, ~~so~~ as long as  
16 the court has jurisdiction over the child. The court shall approve, re-  
17 ject or modify the permanency plan of the department and review progress  
18 in accomplishing the permanency goal. The permanency plan, as approved  
19 by the court, shall be entered into the record as an order of the court.  
20 A permanency hearing may be held at any time and may be combined with the  
21 review hearing required under subsection (1) of this section.

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

27 (d) Where the permanency goal is not reunification, the hearing shall  
28 include a review of the department's consideration of options for  
29 in-state and out-of-state placement of the child. In the case of a  
30 child in an out-of-state placement, the court shall determine whether  
31 the out-of-state placement continues to be appropriate and in the best  
32 interest of the child.

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

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

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

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

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

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

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

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

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

11 (i) As to the efforts made to ensure educational stability for the  
12 child, including the efforts made to keep the child in the school  
13 in which the child is enrolled at the time of placement or that re-  
14 remaining in the school is not in the child's best interests; and

15 (ii) That siblings were placed together, or, if siblings were not  
16 placed together, the efforts made to place siblings together, the  
17 reasons why siblings were not placed together or why a joint place-  
18 ment would be contrary to the safety or well-being of one (1) or  
19 more of the siblings, and a plan for ensuring frequent visitation  
20 or ongoing interaction among siblings, unless visitation or ongo-  
21 ing interaction would be contrary to the safety or well-being of  
22 one (1) or more of the siblings.

23 (i) If there is reason to believe that the child is an Indian child and  
24 there has not been a final determination regarding the child's status as  
25 an Indian child, the department shall document and the court shall:

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

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

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

33 (i) The department shall report to the court the medication and  
34 dosage prescribed for the child, and the medical professional who  
35 prescribed the medication; and

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

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

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

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

1       (4) If a child is in the legal custody of the department and the court  
2 has approved placement of the child in a qualified residential treatment  
3 program, then at each review hearing pursuant to subsection (1) (a) of this  
4 section and at each permanency hearing pursuant to subsection (2) (b) of this  
5 section the department shall document:

6       (a) That ongoing assessment of the strengths and needs of the child con-  
7 tinues to support the determination that the needs of the child cannot  
8 be met through placement in a foster family home, that the placement in  
9 a qualified residential treatment program provides the most effective  
10 and appropriate level of care for the child that is in the least restric-  
11 tive environment, and that the placement is consistent with the short-  
12 term and long-term goals for the child, as specified in the permanency  
13 plan for the child;

14       (b) The specific treatment or service needs that will be met for the  
15 child in the placement and the length of time the child is expected to  
16 need the treatment or services; and

17       (c) The efforts made by the department to prepare the child to return  
18 home or to be placed with a fit and willing relative, a legal guardian,  
19 or an adoptive parent or in a foster family home.

20       (5) Notwithstanding any provision of law to the contrary, the court may  
21 order extended foster care for a person between the ages of eighteen (18) and  
22 twenty-one (21) years to help such person achieve a successful transition to  
23 adulthood, provided such person must have been in the custody of the depart-  
24 ment until his eighteenth birthday and must meet the criteria set forth in 42  
25 U.S.C. 675(8) (B) (iv). The extension shall be for a fixed period of time and  
26 shall not extend past the person's twenty-first birthday.