



LAW VS. PRACTICE IN IDAHO FAMILY COURTS (2025)

STATUTORY INTENT, CONSTITUTIONAL STANDARDS, AND OBSERVED PRACTICE

2025 Child Custody & Domestic Relations Task Force

Charge

Study how Idaho courts are interpreting child custody and domestic relations laws for consistency with legislative intent, and make recommendations if clarification of such intent is warranted. This task force will also examine whether Idahoans have fair access to court processes and adequate legal representation, and propose any statutory improvements necessary to achieve these objectives.

Purpose

To evaluate whether Idaho's family-court system operates in accordance with legislative intent and constitutional guarantees, and to identify statutory and structural reforms necessary to protect children, families, and fundamental rights.

Prepared for:

Idaho Legislature
House and Senate Judiciary & Rules Committees
Governor's Office

Table of Contents

Preface and Acknowledgments	1
Purpose of the Report	1
Authorship and Methodology	1
Final Legislative Synthesis Hearing — December 10, 2025	2
Legislative Purpose	4
Acknowledgments	4
Abstract	6
Executive Summary	8

SECTION II — Law, Testimony & Research: A Systemic Contradiction

Analysis	11
Introduction	11
1. Temporary Orders and Due Process	11
2. Judicial Oversight and Public Accountability	15
2. Absence of Judicial Performance Metrics and Public Accountability Data	20
3. Social Work Documentation and Evidentiary Reliability	22

4. Attorney Ethics and False Statements	24
5. Evaluators and Parenting Coordinators: Expertise Without Oversight	26
6. Domestic Violence, Coercive Control, and Evidence	28
7. Right to Counsel and Economic Parity	30
8. Sealed Records and Public Access	32
9. Empirical Summary — Law vs. Practice in Idaho Family Courts (2025)	35

SECTION III — Synthesis 40

9. Synthesis	39
Constitutional Through-Line	40
Systemic Pattern Rather Than Isolated Failure	40
Consequences for Children and Families	41
Legislative Duty and Authority	41
Synthesis Conclusion	41

SECTION IV — Conclusions and Legislative Implications 42

1. Overarching Conclusion	42
2. Synthesis of Evidence	43
3. Legislative Implications	47
4. Scholarly and Empirical Justification	49

SECTION V — Written Testimony 52

Introduction	52
A. Temporary Orders & Due Process	53
B. Judicial Oversight, Bias & Accountability	54
B.1 Judges Repeatedly Identified in Testimony	55
C. DHW/CPS Documentation & Investigative Failures	56
D. Evaluator & Parenting Coordinator Misconduct	58
E. Domestic Violence, Coercive Control & Trauma Misclassification	60
F. Attorney & Prosecutorial Misconduct	62
G. Economic Coercion & Barriers to Justice	65
H. Sealing, Transparency Failures & Procedural Obstruction	68
I. Systemic Patterns & Collapse of Public Trust	71

SECTION VI — Issue-Based Findings & Summaries 74

Issue Summary 1 — Temporary Orders & Due Process 74

Issue Summary 2 — Judicial Oversight, Bias & Accountability Failures
77

Issue Summary 3 — DHW/CPS Documentation & Investigative Failures
..... 80

Issue Summary 4 — Evaluator and Parenting Coordinator Misconduct
..... 82

Issue Summary 5 — Domestic Violence, Coercive Control & Trauma
Misclassification 86

Issue Summary 6 — Attorney & Prosecutorial Misconduct 89

Issue Summary 7 — Economic Coercion & Access-to-Justice Failures
..... 92

Issue Summary 8 — Sealing, Transparency Failures & Procedural
Obstruction 95

Issue Summary 9 — Systemic Transparency Failures & Collapse of Public
Trust 98

Issue Summary 10 — Absence of Judicial Performance Data & Public

Accountability 100

Issue Summary 11 — Court-Enabled Medical and Educational Neglect
..... 102

Issue Summary 12 — Procedural Weaponization and Process-Based
Punishment 103

SECTION VII — Legislative Recommendations 104

Introduction 104

1. Procedural Due-Process Reforms 105

2. Judicial Accountability and Oversight Modernization 105

3. Transparency, Sealing, and Records Access Reform 106

4. DHW/CPS Administrative-Law and Documentation Reforms 106

5. Evaluator, Parenting Coordinator, and Reunification Program Regulation
..... 107

6. Domestic Violence and Coercive-Control Protections 108

7. Right-to-Counsel and Access-to-Justice Reforms 109

8. Performance Metrics, Audits, and Fiscal Accountability 109

9. Ongoing Review and Periodic Update of the White Paper 109

10. Establishment of a Standing Legislative Committee on Family-Court

Oversight 110

Legislative Recommendations Conclusion 112

APPENDICES A–H 113

Appendix A — Legal and Scholarly References 114

Appendix B — Comparative Law Analysis 119

Appendix C — Idaho Legal Authorities Cited 125

Appendix D — Methodological Framework 130

Appendix E — Legislative Task Force Hearings (2025) 137

Appendix F — Summary of Core Legislative Recommendations ... 142

Appendix G — Proposed Metrics for Reform Evaluation 148

Appendix H — Index of Authorities and Statutes Cited 150

Final Statement 154

End of Report 154

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Preface and Acknowledgments

Purpose of the Report

This document, *Law vs. Practice in Idaho Family Courts (2025)*, was prepared under the direction of the Idaho Legislature's Child Custody and Domestic Relations Task Force. The Task Force was established in response to widespread concerns regarding the consistency, transparency, and fairness of Idaho's family-court system. Its mandate was to determine whether the State's family-law procedures are being applied in accordance with legislative intent and constitutional protections, and to identify where statutory or administrative reform is necessary to protect Idaho families and children.

Authorship and Methodology

This report synthesizes evidence presented across five public hearings held between July and October 2025 across the state of Idaho, followed by a final public legislative synthesis hearing on December 10, 2025. Testimony was received from judges, attorneys, agency administrators, social workers, mental-health professionals, law-enforcement officials, scholars, and more than one hundred Idaho citizens.

All testimony was reviewed using qualitative coding, statutory comparison, and doctrinal constitutional analysis. Patterns were cross-referenced with Idaho statutes, court rules, agency policies, and relevant case law to ensure accuracy and coherence. Legal authorities are cited

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

using *The Bluebook: A Uniform System of Citation* (21st ed.), and scholarly sources are referenced in APA (7th ed.) format.¹

The analysis and recommendations herein represent the professional synthesis of the research and volunteer team collaborating with the Task Force. The report does not adjudicate individual liability; rather, it identifies systemic patterns supported by sworn testimony, including repeated references to specific actors where relevant to legislative oversight.

Final Legislative Synthesis Hearing — December 10, 2025

On December 10, 2025, the Idaho Child Custody and Domestic Relations Task Force convened its final public meeting to review the draft White Paper, synthesize testimony received throughout the 2025 hearing cycle, and identify priority areas for legislative action. During this meeting, Task Force leadership confirmed that the White Paper was derived from sworn and recorded Task Force testimony, written submissions, survey data, and materials presented during the Task Force’s public proceedings.

Task Force members publicly acknowledged that Idaho’s family-court statutes, particularly those governing custody determinations, temporary orders, and enforcement mechanisms, have not undergone comprehensive modernization since the 1990s, despite profound changes in family structure, litigation volume, and judicial complexity. Legislators emphasized that deficiencies in statutory clarity may contribute to inconsistent application of law across judicial districts and limit meaningful oversight of court practices.

¹ *The Bluebook: A Uniform System of Citation* (21st ed. 2020); American Psychological Association, *Publication Manual of the American Psychological Association* (7th ed. 2020).

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

During the hearing, the Task Force reviewed systemic patterns repeatedly identified in testimony, including prolonged temporary custody orders functioning as de facto final determinations, lack of enforceable remedies for custody interference, inconsistent consideration of children's stated preferences, and the absence of uniform evidentiary and procedural safeguards when third-party professionals influence custody outcomes.

Members further discussed the structural limits of existing oversight mechanisms, including the Judicial Council's inability to review legal errors and the resulting gap between judicial accountability and constitutional due-process protections. Legislators also acknowledged the economic barriers faced by families navigating custody proceedings, including the impact of evaluator costs, supervised visitation fees, and unequal access to counsel.

The Task Force concluded that legislative action, rather than further administrative adjustment alone, is necessary to restore statutory clarity, constitutional alignment, and uniform statewide application of Idaho's custody laws. The December 10, 2025, meeting served as the formal legislative confirmation that the findings and reform themes reflected in this White Paper accurately capture both public testimony and the conclusions reached during the Task Force's December 10, 2025 public synthesis hearing.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Legislative Purpose

This report is submitted to the Idaho Legislature, including the House and Senate Judiciary and Rules Committees, and to the Governor's Office. Its purpose is to provide a factual and constitutional foundation for future legislative action, to assist in drafting statutory amendments, and to guide interbranch cooperation between the judicial, executive, and legislative branches of Idaho's government.

Acknowledgments

The Idaho Legislature expresses its gratitude to all those who contributed to this effort, including:

- Members of the Idaho House and Senate who served on the Task Force and participated in hearings statewide.
- Representatives of the Idaho Supreme Court, Judicial Council, and Administrative Office of the Courts for their cooperation and testimony.
- Officials from the Department of Health and Welfare (DHW) and the Division of Occupational and Professional Licenses (DOPL) for providing data and policy insight.
- Representatives of the Idaho State Bar, Court-Appointed Special Advocates (CASA), and Guardian ad Litem (GAL) programs.
- Academic contributors from American University, the University of Idaho, Harvard and MIT.
- The citizens of Idaho who offered testimony, many sharing deeply personal experiences, in pursuit of systemic reform and the protection of children's rights.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Their participation and courage made this record possible and contributed meaningfully to Idaho's ongoing efforts to ensure justice, transparency, and due process in its family-court system.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Abstract

Idaho’s family-court system exhibits a widening and well-documented gap between the law as written, and the law as applied.²

This report synthesizes statutory requirements, constitutional standards, empirical research, agency records, and the full body of oral and written testimony submitted to the 2025 Idaho Child Custody and Domestic Relations Task Force. The evidence reveals systemic procedural delays, inconsistent judicial practices, unsworn and unreliable agency documentation, a lack of professional oversight for evaluators and parenting coordinators, and economic barriers that prevent parents from accessing justice. (National Association for Court Management, 2023).³

Across all districts, parents, children, professionals, law-enforcement officers, and court-appointed personnel described recurring due-process violations, including prolonged “temporary” orders functioning as long-term custody determinations; sealing orders used to suppress errors rather than protect children; unequal enforcement of laws; and misuse or dismissal of domestic-violence evidence. These patterns conflict with governing constitutional doctrine under *Mathews v. Eldridge*, *Troxel v. Granville*, and *Santosky v. Kramer*, as well as with national best-practice standards.

² *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Troxel v. Granville*, 530 U.S. 57 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982); Idaho Const. art. I, §§ 1, 13, 18; Idaho R. Fam. L. P. 504.

³ *Transparency and Accountability in Family Courts*. National Center for State Courts (2022). *Caseflow*

Management and Delay Reduction. U.S. Department of Health & Human Services (2021–2023). *Child Welfare Policy Manual*.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

These findings were formally reviewed and affirmed during the Task Force’s final legislative synthesis hearing on December 10, 2025. They implicate not only parental rights, but children’s independent constitutional interests in safety, stability, medical care, educational continuity, and freedom from state-inflicted harm.

This White Paper presents a structured analysis of these failures, examines their constitutional and statutory implications, and offers evidence-based legislative recommendations. The goal is to support the Idaho Legislature in restoring transparency, uniformity, and due-process protections in family-court proceedings.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Executive Summary

The 2025 Idaho Child Custody and Domestic Relations Task Force undertook a comprehensive review of Idaho’s family-court system to determine whether current practices align with statutory intent, constitutional guarantees, and national best-practice standards.⁴ Testimony from more than one hundred Idahoans, including judges, attorneys, law-enforcement officers, agency administrators, social-work professionals, mental-health experts, and families, revealed patterns of systemic dysfunction across every region of the state.⁵

During its final public meeting on December 10, 2025, the Task Force reviewed the draft White Paper, confirmed that its findings were grounded solely in Task Force testimony, and identified statutory clarity as the Legislature’s primary mechanism for correcting systemic failures. Members emphasized that outdated or fragmented custody statutes constrain judicial consistency, limit enforceability of court orders, and impair meaningful legislative oversight—reinforcing the need for targeted statutory reform rather than reliance on discretionary or administrative remedies alone.

Six overarching findings emerged:

1. Due-process protections are routinely bypassed. Temporary orders remain in effect for months or years without evidentiary hearings; affidavits and unsworn agency reports

⁴ *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Troxel v. Granville*, 530 U.S. 57 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982); *In re Doe*, 137 Idaho 758, 53 P.3d 341 (2002).

⁵ Idaho Child Custody & Domestic Relations Task Force, Hearing Transcripts & Written Testimony (July–December, 2025).

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

substitute for testimony; and parents frequently lose custody without meaningful notice or opportunity to be heard.

2. Judicial oversight mechanisms lack transparency and accountability. The Judicial Council investigates only misconduct—not legal error—and maintains strict confidentiality.

Numerous testimonies documented retaliation, sealing of entire cases, inconsistent rulings, conflicts of interest, and failures to recuse.

3. Administrative agencies and court-appointed professionals operate without uniform standards. DHW/CPS investigations vary widely across regions; documentation is often unsworn or incomplete; evaluators and parenting coordinators function without licensure or regulatory oversight; and psychological-testing practices frequently fall short of evidentiary standards.

4. Economic disparities determine outcomes more than evidence. Idaho lacks a right to counsel in most family-law cases, and litigants report spending \$50,000–\$250,000 to maintain parental rights. Evaluator fees, supervised-visitation costs, transcript charges, and repeat filings create structural barriers that disproportionately harm lower-income families.

5. Court-ordered delays and restrictions frequently result in direct harm to children.

Testimony demonstrated that prolonged temporary orders, denial of hearings, and court-imposed custody arrangements caused children to miss medical treatment, lose educational stability, experience prolonged separation from primary attachment figures, and remain in unsafe placements—constituting state-inflicted harm rather than private family conflict.

6. There is no transparent, performance-based data demonstrating judicial effectiveness, constitutional compliance, or responsible stewardship of public funds. Testimony revealed that neither judges nor court employees are subject to publicly accessible performance evaluations, outcome metrics, or constitutional compliance reviews, despite recent legislative appropriations increasing judicial funding. The absence of measurable standards prevents legislative oversight, public accountability, and evidence-based budgeting.

The cumulative effect of these failures is a family-court system that is unpredictable, inconsistent, and at times, constitutionally unsound.⁶ Patterns documented in testimony reflect violations of *Mathews v. Eldridge* procedural-due-process requirements, *Troxel v. Granville* parental-rights protections, and the evidentiary commands of the Idaho Rules of Family Law Procedure.⁷

This White Paper provides a legally grounded, evidence-based framework for reform. It synthesizes the statutory contradictions, administrative failures, judicial-oversight gaps, and behavioral-science misapplications identified throughout the Task Force process. The findings support a package of legislative recommendations to restore transparency, uniformity, accountability, and constitutional fidelity to Idaho's family-court system.

⁶ See *infra*-Sections II–V

⁷ Idaho R. Fam. L. P. 504, 704–705; Idaho R. Evid. 702.

SECTION II — Law, Testimony & Research: A Systemic Contradiction Analysis

Introduction

Section II presents the core legal and evidentiary analysis of Idaho’s family-court system. It identifies where current practice diverges from statutory mandates, constitutional protections, and national best-practice standards. Drawing from testimony, statutory comparison, administrative records, and empirical research, this section documents the structural contradictions that necessitate legislative intervention.

These issue areas were expressly reaffirmed by Task Force members during the December 10, 2025, legislative synthesis hearing as reflecting the most persistent and constitutionally significant failures identified throughout the 2025 proceedings.

Below are the findings, presented issue by issue.

1. Temporary Orders and Due Process

Temporary custody orders in Idaho were designed by statute and rule⁸ to serve as short-term, emergency measures, not long-term substitutes for adjudication. Yet the testimonial record demonstrates that temporary orders routinely persist for months or years without evidentiary hearings, contrary to both constitutional doctrine and Idaho’s own statutory framework.

Idaho Constitutional Analysis

Idaho’s Constitution contains multiple, independent protections that temporary-order practices routinely violate:

⁸ Idaho Code §§ 32-717, 32-704; Idaho R. Fam. L. P. 504.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

• *Article I, § 1 — Inalienable Rights*⁹

Guarantees the inherent rights of safety, happiness, and liberty, all of which are implicated when the State disrupts the parent-child relationship. Idaho courts have repeatedly held that parental rights fall within these inalienable protections.

• *Article I, § 13 — Due Process of Law* ¹⁰

Prohibits deprivation of a fundamental liberty interest, including parenting, without notice, meaningful opportunity to be heard, and reliable evidence. Extended temporary orders without hearing(s) violate this clause on its face.

• *Article I, § 18 — Courts Open; Remedy for Every Injury*¹¹

Guarantees a “speedy remedy” and access to the courts. Temporary orders lasting 6–24+ months with no evidentiary process or judicial findings frustrate this constitutional mandate and function as a constructive denial of remedy.

• *Idaho Supreme Court Doctrine on Parental Rights*

Idaho’s highest court has repeatedly recognized parental rights as “natural, essential, and fundamental,”¹² requiring the highest degree of protection. When temporary orders effectively

⁹ Idaho Const. art. I, § 1; *In re Doe*, 137 Idaho 758, 762–63, 53 P.3d 341, 345–46 (2002) (recognizing parental rights as natural, fundamental liberty interests protected by the Idaho Constitution).

¹⁰ Idaho Const. art. I, § 13; *State v. Doe*, 146 Idaho 759, 763–64, 203 P.3d 689, 693–94 (2009) (holding that due process under the Idaho Constitution requires notice and a meaningful opportunity to be heard before deprivation of a protected liberty interest); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

¹¹ Idaho Const. art. I, § 18; *Moon v. Bullock*, 65 Idaho 594, 601–02, 151 P.2d 765, 768 (1944) (Article I, § 18 guarantees a meaningful and timely remedy through the courts); *Jones v. State Bd. of Med.*, 97 Idaho 859, 863, 555 P.2d 399, 403 (1976).

¹² *In re Doe*, 137 Idaho 758; *Troxel v. Granville*, 530 U.S. 57.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

become long-term custody orders without trial, Idaho's constitutional protection of parental rights is directly undermined.

Due process further requires that any restriction on parental access or child placement be the least restrictive means necessary to serve a compelling interest. Testimony established that Idaho family courts routinely impose maximal restrictions—including supervised visitation, no-contact orders, and prolonged separation—without findings that less intrusive alternatives were considered or rejected, violating *Mathews v. Eldridge*.

Conflict Between Idaho Law and Idaho Practice

Though IRFLP 504 anticipates swift scheduling and rapid evidentiary review, testimony established that:

- Temporary orders remained in place for 6–24 months or more;
- Courts issued repeated continuances without statutory justification;
- Trials were not scheduled or repeatedly delayed;
- Parents were subjected to blackout periods, depriving them of all contact with their children;
- Temporary restrictions were used as coercive leverage rather than protective measures.

These practices convert temporary orders into de facto permanent adjudications without affording the constitutional due-process protections required for such outcomes.

Testimonial Evidence of Constitutional Harm

Youth testimony¹³ described the destabilizing harm caused by being isolated from a protective parent under an extended temporary order. Parents reported severe financial, emotional, and psychological impacts from being placed in prolonged interim status. Legislative members of the Task Force independently identified extended temporary orders as a primary systemic failure during hearing synthesis discussions, noting that such orders routinely function as de facto final determinations without evidentiary hearings or timelines, creating prolonged instability for children and families.

Conclusion

The pattern of extended temporary orders in Idaho violates *Article I*, § 1 (inalienable parental rights), *Article I*, § 13 (due process of law), and *Article I*, § 18 (open courts and access to remedy), as well as Idaho Supreme Court doctrine recognizing parental rights as natural, essential, and fundamental. These practices also conflict with the intent of IRFLP 504, which contemplates swift evidentiary review rather than prolonged interim adjudication.

These contradictions establish a structural constitutional defect in Idaho's current administration of temporary custody orders.¹⁴

¹³ Idaho Child Custody & Domestic Relations Task Force, Hearing Transcript, Youth Testimony (A.M.) (2025).

¹⁴ *Mathews v. Eldridge*, 424 U.S. 319; Idaho Const. art. I, §§ 1, 13, 18; Idaho R. Fam. L. P. 504.

2. Judicial Oversight and Public Accountability

Judicial oversight is a constitutional requirement—not a discretionary feature—of Idaho’s system of separated powers.¹⁵ Yet testimony presented to the Task Force revealed deep and systemic contradictions between Idaho’s constitutional framework, the statutory structure of the Judicial Council, and the practical realities experienced by litigants. Judicial oversight in Idaho’s family-court system is structurally fragmented and functionally inadequate. Testimony before the Task Force established that the existing oversight framework—split between the Idaho Judicial Council and local Magistrate Commissions—does not provide a coherent, transparent, or effective mechanism for identifying, correcting, or preventing systemic judicial failure in family-court proceedings.

Structural Limitations of the Idaho Judicial Council

The Idaho Judicial Council is statutorily tasked with investigating judicial misconduct and enforcing the Idaho Code of Judicial Conduct. As explained in testimony by Jeff Brudie, former District Judge and Executive Director of the Council, the Council’s role is limited to ethical violations and does not extend to review of legal error, constitutional misapplication, or patterns of procedural harm.

Testimony before the Task Force demonstrated that the most serious harms experienced by families in custody proceedings—denial of hearings, prolonged temporary orders, retaliatory sealing, suppression of evidence, and deprivation of appellate access—are routinely categorized as “legal error” and therefore fall outside the Council’s jurisdiction.

¹⁵ Idaho Const. art. V; Idaho Const. art. I, §§ 13, 18; *Tumey v. Ohio*, 273 U.S. 510, 523 (1927); *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876–77 (2009).

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

As a result, complaints alleging systemic due-process violations are frequently dismissed without corrective action, not because the conduct is benign, but because the oversight body lacks authority to address the nature of the harm alleged.

This jurisdictional limitation does not reflect individual failure by Council leadership; rather, it reflects a statutory design that renders the Council incapable of functioning as an effective oversight mechanism for family-court proceedings, where constitutional violations arise from judicial decision-making rather than isolated ethical lapses.

Idaho Constitutional Analysis

Idaho's Constitution establishes multiple independent protections that judicial-oversight failures routinely violate:

• *Article I, § 18* — Open Courts; Remedy for Every Injury

This clause guarantees every Idahoan a “speedy remedy” in the courts and prohibits justice from being obstructed.

When family-court judges:

- seal entire cases without written findings,
- prevent litigants from accessing their own transcripts or recordings,
- refuse to schedule hearings, or retaliate against parents for raising concerns, they deny access to justice in direct violation of §18.¹⁶

¹⁶ Idaho Court Administrative Rule 32(i); *Jones v. State Bd. of Med.*, 97 Idaho 859, 863, 555 P.2d 399, 403 (1976).

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Selective sealing, especially when used to conceal judicial error(s) or suppress public accountability, is incompatible with Idaho’s constitutional command that courts remain open and accessible.¹⁷

• Article I, § 7 — Administration of Justice Without Sale, Denial, or Delay

This clause bars the State from administering justice through: - delay, - denial,

- obstruction, - retaliation, - or financial coercion.

Testimony reported cases in which judges: - delayed trials for months or years, - denied hearings without explanation, - imposed punitive sanctions on protective parents, - and used temporary orders to control case outcomes before evidence was heard.

Such practices constitute unconstitutional delays and denial of justice under §7.

• Article V — Judicial Power and Structural Limits

The Idaho Constitution vests judicial power in the courts, not in:

- private evaluators,

- parenting coordinators,

- or opaque administrative bodies.

When evaluators or Parenting Coordinators make quasi-judicial decisions without statutory authority, and when judges rely on them without independent review, judicial power is unlawfully delegated, violating *Article V*’s structural limits.

¹⁷ Idaho Court Administrative Rule 32(a)–(b); Idaho Const. art. I, § 18.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Furthermore, Idaho’s judicial-disqualification structure—where judges rule on their own bias—conflicts with *Article V*’s requirements for neutral adjudication.

• Idaho Supreme Court Doctrine: Impartial Tribunal Requirement

The Idaho Supreme Court has long held that due process requires a tribunal that is not only fair but “appears to be fair.” Widespread testimony of: - retaliation, - hostility, - disparate treatment, - and conflicts of interest, indicates systemic deviation from this constitutional mandate.

Structural Conflicts Between Idaho Law and Idaho Practice

As discussed above, these practices violate *Article I* §§ 7, 13, and 18 of the Idaho Constitution and conflict with *Article V*’s structural limits on judicial power. The Judicial Council’s restricted jurisdiction, combined with confidentiality requirements and the absence of performance review mechanisms, creates a systemic accountability gap that prevents constitutional violations from being identified or corrected.

During the December 10, 2025, public synthesis hearing, Task Force members explicitly acknowledged that Idaho’s Judicial Council is limited to ethical misconduct and does not address legal error, leaving litigants without a meaningful avenue to challenge patterns of procedural failure or constitutional misapplication absent costly and delayed appeals.

Testimony further revealed that judicial accountability in Idaho is dispersed across multiple bodies, the Idaho Judicial Council for conduct review and local Magistrate Commissions for magistrate oversight, without a unified mechanism to assess systemic judicial performance, constitutional compliance, or recurring procedural failures in family-court cases.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

While Magistrate Commissions possess appointment and evaluation authority, they are not routinely informed of due-process-based complaints dismissed by the Judicial Council, nor are they tasked with auditing judicial behavior for constitutional adherence. This structural disconnect allows patterns of harm to persist without review by any body empowered to impose corrective or preventive measures.

Testimonial Evidence Demonstrating Constitutional Harm

The testimonial record confirms the constitutional violations identified above. As discussed in the preceding constitutional analysis, these practices violate *Article I* §§ 7, 13, and 18 of the Idaho Constitution by denying timely access to hearings, obstructing remedies, and insulating judicial conduct from meaningful review. The resulting harm to children demonstrates that judicial-oversight failure is not merely an institutional defect, but a direct contributor to unsafe and unconstitutional custody outcomes.

Legal Conclusion

As detailed above, Idaho's current judicial-oversight framework violates *Article I* §§ 7, 13, and 18 of the Idaho Constitution and conflicts with *Article V*'s structural requirements by excluding constitutional violations and legal error from meaningful review.

Legislative action is required to ensure independent oversight, transparent review, mandatory written findings for sealing, and a disqualification system consistent with Idaho's constitutional framework.

The Task Force concludes that an oversight framework that excludes constitutional violations, legal error, and procedural abuse from meaningful review cannot satisfy Idaho's obligations under *Article I*, §§ 7, 13, and 18 of the Idaho Constitution. Oversight that exists only for ethical

misconduct—while leaving the most consequential harms unaddressed—constitutes a systemic failure of judicial accountability.

2. Absence of Judicial Performance Metrics and Public Accountability Data

Testimony before the Task Force established that Idaho lacks transparent, publicly accessible data demonstrating whether family-court judges and court personnel are performing their duties in compliance with constitutional, statutory, and procedural requirements. Unlike other public servants whose performance is evaluated through measurable standards, Idaho’s family-court system operates without published metrics assessing judicial timeliness, evidentiary compliance, constitutional fidelity, or case-outcome integrity.

Task Force members noted that judges and court employees are public servants funded by taxpayer appropriations, yet no standardized performance evaluations, service benchmarks, or outcome metrics are made available to the Legislature or the public. As a result, neither lawmakers nor citizens can determine:

- whether temporary orders comply with constitutional time limits;
- whether hearings are being timely scheduled and conducted;
- whether sealing orders are narrowly tailored and justified;
- whether litigants receive timely access to transcripts and recordings;
- whether judicial practices align with statutory mandates and due-process requirements;
- whether court orders have resulted in delayed or denied medical or mental-health care for children;

This absence of data is not incidental; it is structural. Without mandatory reporting requirements, the judiciary is effectively insulated from evidence-based oversight, preventing the Legislature

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

from fulfilling its constitutional role in monitoring public expenditures and ensuring that appropriated funds are used in a manner consistent with Idaho law.

During the most recent legislative session, the judiciary requested and received additional funding to address staffing shortages, case backlogs, and administrative needs. However, testimony revealed that these funding requests were not accompanied by transparent performance data, outcome measures, or constitutional compliance metrics demonstrating that existing resources were being deployed effectively or lawfully.

In the absence of such data, legislative appropriations occur without the tools necessary to evaluate effectiveness, efficiency, or constitutional adherence—placing Idaho outside accepted norms of public-sector accountability.

The absence of judicial performance metrics implicates multiple provisions of the Idaho Constitution:

These examples illustrate the constitutional violations discussed above.

Article I, § 18 guarantees open courts and meaningful remedies;

Article I, § 7 prohibits justice administered by delay or obstruction;

and *Article II* vests the Legislature with responsibility for fiscal oversight and accountability.

A system that collects public funds without producing measurable indicators of constitutional compliance undermines the separation of powers and frustrates legislative oversight.

The inability of existing oversight bodies to respond meaningfully when specific judges are repeatedly identified in testimony alleging due-process violations illustrates the systemic—not individual—nature of Idaho’s judicial accountability failure.

3. Social Work Documentation and Evidentiary Reliability

Idaho's family-court system relies heavily on DHW/CPS documentation, yet the testimonial record demonstrates that agency practices routinely conflict with Idaho's constitutional protections, statutory mandates, and required evidentiary standards.

Idaho Constitutional Analysis

Social-work documentation failures implicate multiple provisions of the Idaho Constitution:

As discussed above, these practices violate *Article I §§ 1, 13, and 18* of the Idaho Constitution by depriving parents and children of liberty, due process, and meaningful judicial remedy.

Structural Conflicts Between Idaho Law and Agency Practice

Testimony across all regions revealed uniform contradictions between DHW practice and Idaho statutes:

- *Statutory conflict:* Idaho Code Title 16 requires timely investigation, documentation, and mandatory hearings. These steps were skipped in numerous cases.
- *Evidentiary conflict:* DHW frequently submits unsworn affidavits, contradicting the Idaho Rules of Evidence and IRFLP requirements for verified filings.
- *Administrative-law conflict:* The Central Registry uses an unconstitutional “more likely than not” standard for permanent placement without judicial review, violating due-process guarantees and exposing the State to liability under *42 U.S.C. § 1983*.
- *Uniformity conflict:* Families in different counties received drastically different CPS responses, demonstrating a lack of statewide standards required under Idaho's Administrative Procedure Act.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Testimony further revealed the absence of enforceable evidence-preservation requirements for DHW/CPS records. Loss, alteration, or omission of documentation obstructs judicial review, impairs appellate remedies, and violates due process guarantees. Legislative reform must include mandatory record-preservation standards and audit mechanisms.

Testimonial Evidence Demonstrating Constitutional Harm

- Testimony reported missing and altered abuse reports, including medical findings removed from case files.
- Testimony reported the removal of a medically fragile infant against physician recommendation, without sworn evidence or a mandated hearing.
- Testimony reported child abuse ignored despite video and photographic proof.
- Testimony reported DHW denying a fully approved kinship placement in violation of *Idaho Code § 16-1627*.
- Testimony reported multi-generational harm, where CPS refused to investigate credible danger reports.

These accounts collectively demonstrate that DHW/CPS actions often occurred outside the boundaries of Idaho constitutional protections, statutory authority, and evidentiary requirements.

Legal Conclusion

The patterns revealed in testimony establish that Idaho's social-work documentation system suffers from structural defects that produce constitutional violations, including:

- Deprivation of parental liberty without due process (*Art. I §13*),

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Denial of access to remedy and open courts (*Art. I §18*),
- Infringement of inalienable parental rights (*Art. I §1*),
- Administrative actions taken ultra vires (beyond statutory authority).

Legislative reform—requiring sworn documentation, uniform investigative standards, mandatory hearings, transparent audit trails, and due-process protections for registry placement—is necessary to bring DHW/CPS practices into alignment with the Idaho Constitution.

4. Attorney Ethics and False Statements

Idaho’s Rules of Professional Conduct (IRPC) require attorneys to uphold candor toward the tribunal, refrain from advancing frivolous or knowingly false claims, and avoid conduct involving dishonesty, fraud, deceit, or misrepresentation. In family-law cases, where allegations can directly affect custodial rights, safety, and parental liberty, these ethical obligations take on constitutional significance.

Idaho Constitutional Alignment

Several Idaho constitutional provisions are implicated when attorney misconduct goes unaddressed:

• *Article I, § 13* — Due Process of Law

Knowingly false allegations, falsified documents, or misrepresentations that result in custody restrictions or supervised visitation deprive a parent of a fundamental liberty interest without due process, violating Idaho’s constitutional protections.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

• *Article I, § 18* — Remedy and Access to Courts

When attorneys weaponize filings, obstruct access to evidence, or intimidate litigants, they impair a parent's constitutional right to obtain a meaningful judicial remedy. The remedy clause does not tolerate procedures dominated by dishonesty or procedural manipulation.

• Equal Protection Principles Under Idaho Law

When courts excuse falsehoods from one party while penalizing the other for lesser or unproven conduct, the unequal treatment of similarly situated litigants raises constitutional concerns under Idaho's commitment to fairness and impartiality in the administration of justice.

Testimonial Patterns

Parents reported recurring attorney misconduct, including: - filing knowingly false allegations; - forging or altering documents; - coaching clients to misuse protection orders or CPS processes; - retaliatory filings intended to exhaust or intimidate; - misrepresentation of police or medical evidence.

Professional submissions describing prosecutorial misconduct further demonstrate that the gaps in accountability extend beyond civil matters, highlighting the need for clearer constitutional guardrails and independent review mechanisms.

Conclusion

The failure to enforce IRPC standards consistently creates conditions in which attorney misconduct can distort outcomes, burden courts, and infringe upon constitutionally protected parental rights. Modest statutory reforms, such as mandatory reporting for knowing falsehoods, clearer sanctions for fabrication, and protections against retaliatory filings, would help realign

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Idaho's family-court practices with the Idaho Constitution's due-process and access-to-justice guarantees.

5. Evaluators and Parenting Coordinators: Expertise Without Oversight

Evaluators, parenting coordinators (PCs), and reunification-therapy providers exert disproportionate influence over custody outcomes in Idaho. Despite this, Idaho maintains no statutory licensing, training, or oversight framework governing these roles. Their work is often treated by judges as quasi-judicial, yet their authority is not grounded in statute, administrative rule, or evidentiary reliability standards. The absence of guardrails has produced inconsistent quality, conflicts of interest, and widespread financial exploitation.

Nothing in Idaho statute confers independent adjudicative authority on evaluators, parenting coordinators, or reunification providers; any influence they exert over custody outcomes occurs solely through judicial delegation, not legislative authorization.

Testimony from families, mental-health professionals, and legal practitioners revealed pervasive concerns: - Evaluations conducted without interviewing children, contrary to basic forensic standards. - Alienation theories used to override documented abuse disclosures, despite the absence of empirical validation. - Financial coercion, including required retainers ranging from \$6,000–\$12,000 and hourly fees rivaling complex litigation. - Evaluator–attorney alliances and undisclosed conflicts of interest, leading to biased reports. - Parenting coordinators issuing binding decisions without statutory authority or due-process protection. - Psychological testing misuse, including reliance on instruments unsuited for custody determinations.

Professional submissions, including the Psychological Testing Evaluation (PTE) Report, the UN Special Rapporteur Report on violence against women and children, and the AFCC critique

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

packets, confirmed that trauma-blind evaluation practices and misuse of parental-alienation constructs place children at heightened risk. These findings align with national studies showing that unregulated evaluators are a *major* vector of systemic harm in family courts.

Testimony from a licensed mental-health professional and multiple additional families documented evaluator practices that contradicted forensic science, ignored child disclosures, or selectively omitted evidence inconsistent with preferred narratives. Parenting coordinators were frequently described as functioning like private judges, issuing directives, imposing restrictions, and escalating conflict, without recording requirements, appellate pathways, or standards of review.

Under *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993), expert testimony must be based on reliable methods and sufficient data. Idaho's current evaluator and Parenting Coordinator system falls far short of this constitutional benchmark. Without statutory licensure, training standards, peer review, complaint mechanisms, or mandatory disclosures of conflicts, Idaho cannot ensure the reliability or fairness of evaluator-driven recommendations.

Legislative action establishing licensure, statewide standards, transparent complaint processes, and strict limits on evaluator authority is essential to restoring procedural integrity and protecting child safety.

6. Domestic Violence, Coercive Control, and Evidence

Domestic violence adjudication in Idaho is governed primarily by *Idaho Code* § 39-6303, which defines domestic violence narrowly as physical injury or the threat thereof. Idaho law does not currently recognize coercive control, despite overwhelming testimony, national research, and international standards demonstrating its centrality in patterns of abuse.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

This omission creates a direct conflict between Idaho’s constitutional protection of parental rights and the State’s failure to recognize forms of abuse that impair a parent’s ability to safely care for their child.

Idaho Constitutional Protections Implicated

- *Article I, § 1* – Inalienable Rights: Guarantees safety, happiness, and liberty as natural rights. Victims testified that coercive-control dynamics deprived them and their children of safety and autonomy.
- *Article I, § 13* – Due Process of Law: Prohibits deprivation of life, liberty, or property without due process. Coercive-control evidence was often excluded, misclassified, or reversed through alienation claims.
- *Idaho Supreme Court Precedent*: Idaho courts have long referred to parental rights as “natural, essential, and fundamental,” requiring strict protection.

Conflicts Identified Between Idaho Law, Idaho Constitution & Practice

- Courts misclassify DV as “high conflict,” failing to protect victims’ constitutional rights to safety.
- Judges impose temporary or supervised placement orders without considering coercive dynamics, contradicting both constitutional due process and Idaho’s public policy emphasizing child safety.
- Failure to consider coercive control leads to unconstitutional interference with the fundamental right of a safe parent to raise their child (Troxel principle applied under Idaho’s constitutional framework).

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Idaho’s lack of statutory recognition forces victims into evidentiary burdens that conflict with constitutional protections.

Testimony Patterns

Testimony demonstrated widespread judicial misunderstanding and dismissal of DV and coercive-control evidence. Victims reported medical documentation, photographs, videos, and police referrals ignored or discounted. In several cases, disclosures of abuse were used against the protective parent through alienation allegations—directly contradicting the protective function embedded in Idaho’s constitutional protections.

National and International Standards

States including Washington (HB 1901) and Hawaii (SB 1419) codify coercive control, recognizing it as a core indicator of child and parental endangerment. Federal Kayden’s Law identifies coercive control as a critical safety factor requiring heightened scrutiny. International frameworks (*UN Special Rapporteur Report, 2024*) similarly recognize coercive control as a primary vector of harm.

Conclusion

The failure to codify or properly evaluate coercive control produces outcomes that conflict with Idaho’s constitutional guarantees of safety and parental autonomy. Incorporating coercive-control standards in statute, judicial training, and evidentiary practice is essential to ensuring constitutional compliance and child safety.

7. Right to Counsel and Economic Parity

The ability of a parent to defend their fundamental rights in family-court proceedings should not depend on wealth. Yet testimony and empirical data confirm that Idaho's family-court system routinely produces outcomes determined by economic advantage, not evidence. This reality stands in direct conflict with Idaho's constitutional structure and long-standing recognition that parental rights are fundamental.

Idaho Constitutional Analysis

Idaho's Constitution provides multiple layers of protection that are implicated when economic inequality prevents parents from accessing justice:

- *Article I, § 13* — Due Process of Law

Parents may not be deprived of custody or meaningful parenting time without constitutionally adequate process. When litigants cannot afford: - legal representation, - transcript fees necessary for appeal, - evaluator rebuttal reports, - supervised visitation fees, - or repeated filings required to challenge false claims, they are effectively denied due process, even if procedures exist in theory.

- *Article I, § 18* — Open Courts; Remedy by Due Course of Law

This clause guarantees not only that courts must be open, but that justice must be accessible. When litigation costs reach \$50,000–\$250,000 within the first year of proceedings, access becomes illusory, violating § 18's remedy clause.

It is a constitutional violation when: - parents cannot afford to respond to filings, - appeals are impossible because transcript fees exceed monthly income, - evaluators require \$6,000–\$12,000

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

retainers, - supervised visitation becomes unaffordable, - or one party's financial leverage dictates outcomes.

• *Fundamental Rights Doctrine Under Idaho Supreme Court Precedent*

Idaho's high court has repeatedly held that parental rights are "natural, essential, and fundamental," requiring strict scrutiny when government action interferes with them.

A system where only wealthy parents can meaningfully defend those rights fails strict-scrutiny analysis on its face.

• *Equal Protection Principles Under Idaho Law*

Unequal outcomes based on wealth—rather than evidence—violate Idaho's constitutional commitments to fairness, uniformity, and equal protection in the administration of justice.

Testimonial Evidence of Constitutional Harm

Parents statewide reported: - spending more on litigation than on mortgages, - liquidating retirement accounts, - filing bankruptcy, - or losing custody solely due to inability to continue funding litigation.

Many described being forced into supervised visitation or reduced custody not due to evidence, but due to inability to pay evaluator fees, reunification programs, or attorney retainers.

These harms disproportionately affected protective parents, low-income households, rural residents, and victims of domestic violence.

Legal Conclusion

Economic inequality in Idaho family courts violates:

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- *Art. I § 13* — due-process rights of parents unable to defend themselves,
- *Art. I § 18* — access-to-justice guarantees,
- Idaho’s strict-protection doctrine for parental rights, and - equal-protection principles embedded in Idaho’s constitutional tradition.

Legislative remedies, such as limited-scope counsel, fee-shifting, income-based evaluator fee caps, transcript-fee waivers, and state-supported DV and indigent representation, are required to bring Idaho’s practices into constitutional compliance.

8. Sealed Records and Public Access

Idaho’s Constitution requires courts to function transparently, with meaningful access to records, appeals, and remedies. The testimonial record reveals that sealing practices in Idaho’s family courts are frequently overbroad, unsubstantiated, retaliatory in effect, and incompatible with Idaho’s constitutional guarantees of open courts, due process, and parental liberty.

Idaho Constitutional Analysis

- *Article I, § 18* — Open Courts; Remedy for Every Injury

Idaho’s Constitution mandates that “Courts of justice shall be open to every person.” Testimony showed multiple systemic violations of this mandate: - Entire case files sealed without the written findings required under *ICAR 32*.¹⁸ - Parents prevented from obtaining their own transcripts or audio recordings. - Records withheld in ways that obstructed appeals or motions to reconsider. - Sealing used immediately after litigants raised concerns about judicial misconduct.

¹⁸ Idaho Court Administrative Rule 32(e)(1)–(3).

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Such practices obstruct access to remedies, violating §18's command that justice be prompt, accessible, and observable.

- *Article I, § 9 — Freedom of Speech and Press*

Parents reported being: threatened with contempt for referencing their own filings, - told they could not discuss their cases publicly, - warned them not to speak to legislators or the press.

These restraints infringe on §9's protections against government suppression of speech. Sealing cannot constitutionally operate as a gag order or shield judicial actors from scrutiny.

- *Article I, § 13 — Due Process of Law*

When records are withheld, parents cannot: - challenge evidence, - prepare appellate briefs, - obtain proof of procedural violations, - or file Judicial Council complaints.

Because custody orders concern a fundamental liberty interest, obstructing access to the record is itself a due-process violation under §13.

- *Article I, § 1 — Inalienable Rights (Parental Liberty)*

Parents have a constitutional right to raise their children safely. When sealing conceals evaluator errors, judicial misconduct, or evidence of coercive control, it directly harms a parent's ability to protect their children and assert constitutional rights.

Conflicts Between Idaho Law and Idaho Practice

ICAR 32 establishes a presumption of openness and requires: - narrowly tailored sealing, - written findings, - redacted alternatives, - and availability of records for appeal.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Testimony showed that Idaho courts frequently: - sealed hearings and at times entire dockets reflexively, - issued no written findings, - refused even redacted access, - withheld appellate materials for months or years.

These practices violate both *ICAR 32* and Idaho's constitutional structure.

Testimony Demonstrating Constitutional Harm

Parents and professionals described: - selective leaking of sealed materials by judges, - retaliatory sealing, - inability to file appeals or misconduct complaints, - and being denied records needed to prove abuse or coercive control.

Collectively, these patterns represent a systemic departure from Idaho's open-courts tradition.

Legal Conclusion

Idaho's sealing practices conflict with: - *Art. I § 18*, open courts and prompt remedies, - *Art. I § 9*, free speech and public scrutiny of government, - *Art. I § 13*, due process, - *Art. I § 1*, parental liberty, - *ICAR 32*, presumption of openness.

Legislative reforms, requiring narrow tailoring, written findings, redacted alternatives, automatic sealing review, and guaranteed access for appeal, are necessary to restore Idaho's constitutional commitments.

9. Empirical Summary

Law vs. Practice in Idaho Family Courts (2025)

A systemic divergence between statutory intent, constitutional guarantees, and lived outcomes for children and families

1. Title

Law vs. Practice in Idaho Family Courts (2025)

2. Executive Summary

Idaho’s family-court system exhibits a consistent, statewide pattern in which the law as written is not the law as applied. Sworn testimony, survey data, administrative records, sealed material review, and legislative synthesis confirm that temporary orders routinely replace adjudication, judicial accountability mechanisms lack authority to correct constitutional violations, agencies and evaluators operate without enforceable standards, and economic barriers dictate outcomes more than evidence. These failures are not isolated, they are structural, and they produce direct harm to children, families, and public trust.

3. Introduction

The Idaho Legislature convened the Child Custody and Domestic Relations Task Force to evaluate whether family-court practices align with statutory intent and constitutional mandates. Across five public hearings, and a final synthesis hearing, testimony from parents, youth, judges, attorneys, agencies, and professionals revealed recurring contradictions between what Idaho law requires and what families experience in practice. This section presents a visual synthesis of those contradictions.

4. Problem Description

What the Evidence Shows (Statewide Patterns)

Temporary Orders

- Intended to be short-term → function as long-term custody determinations
- 6–24+ months without evidentiary hearings

Judicial Oversight

- Ethical review only → no review of legal error or constitutional harm
- Retaliation, sealing misuse, and unreviewable discretion documented

Agency & Documentation Practices

- Sworn evidence required → unsworn, missing, or altered records used
- Mandatory hearings skipped

Evaluators & Parenting Coordinators

- No licensure or oversight → quasi-judicial authority exercised
- Unscientific alienation theories override abuse evidence

Domestic Violence

- Narrow statutory definition → coercive control ignored
- Protective behavior reframed as “conflict” or “alienation”

Transparency & Access

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Presumption of open courts → entire cases sealed
- Transcripts and recordings withheld

Economic Reality

- No right to counsel → outcomes dictated by wealth
- \$50k–\$250k litigation costs common

Child Impact

- Medical care delayed
- Education disrupted
- Prolonged separation from attachment figures/parents
- Unsafe placements maintained

5. Policy Options

Paths Available to the Legislature

Option 1 — Maintain Status Quo

- Continue discretionary practices
- Rely on appeals and misconduct complaints

Result: Ongoing constitutional violations, child harm, and loss of public trust

Option 2 — Incremental Administrative Adjustments

- Training without statutory change

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Voluntary guidelines

Result: Insufficient authority to correct systemic failures

Option 3 — Statutory Modernization (Evidence-Based)

- Enforceable timelines
- Oversight authority with audit power
- Regulated evaluators
- DV & coercive-control recognition
- Access-to-justice safeguards

Result: Constitutional alignment and child protection

6. Recommendation

Adopt Comprehensive Statutory Reform

The Task Force evidence supports legislative action, not discretionary adjustment. Statutes must:

- Restore due-process timelines for temporary orders
- Create oversight mechanisms capable of reviewing constitutional harm
- Require sworn, reliable agency documentation
- Regulate evaluators and parenting coordinators
- Codify coercive control as a domestic-violence factor
- Guarantee transparency, record access, and appeal viability
- Prevent economic coercion from determining parental rights

These reforms are constitutionally required and empirically justified.

7. Conclusion

Idaho’s family-court failures are systemic, statewide, and correctable. The Legislature has both the authority and the obligation to restore constitutional fidelity, protect children, and reestablish public trust. The evidence shows that when law is allowed to drift from practice, families pay the price. Statutory clarity is the mechanism by which justice can be restored.

8. References¹⁹

9. Synthesis

Idaho’s family-court system presents a consistent and constitutionally significant pattern: the law as written is not the law as applied. The divergence is not episodic or attributable to isolated error; rather, it reflects systemic misalignment between Idaho’s constitutional guarantees, statutory mandates, administrative practices, and judicial decision-making. When viewed collectively across all evidentiary domains, the contradictions form a unified structural failure.

¹⁹ See Appendix A — Legal and Scholarly References, Appendix H — Index of Authorities, and Appendix G — Metrics for Reform Evaluation

Constitutional Through-Line

Across every issue area examined, the testimonial and documentary record demonstrates repeated violations of Idaho Constitution *Article I §§ 1, 7, 9, 13, and 18* and *Article V*, reflecting systemic departure from binding constitutional requirements rather than isolated error. These provisions are not aspirational—they are binding constitutional commands. The testimony record establishes that current practices frequently deny parents a fair process, impair access to evidence, obstruct remedies, and permit adjudication based on unsworn or unreliable information.

Systemic Pattern Rather Than Isolated Failure

The statements of judges, agency leaders, attorneys, mental-health professionals, and hundreds of Idaho citizens demonstrate that these failures exist across all judicial districts. Sealing is misused in the same ways in Ada and Bonner Counties; evaluator misconduct appears in every region; DHW documentation failures occur across the Treasure Valley, Magic Valley, and Panhandle; and financial barriers produce unequal outcomes statewide.

When consistent patterns of injustice emerge across agencies, courts, and counties, the issue is not individual misconduct, it is structural drift away from constitutional, statutory, and evidentiary requirements.

Consequences for Children and Families

The constitutional, procedural, and evidentiary defects documented in this report have real and severe consequences: - children remain in unsafe placements due to untested or ignored DV evidence; - protective parents lose custody through prolonged temporary orders; - families are impoverished by litigation costs that violate the principle of open courts; - parents cannot appeal

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

due to withheld transcripts or sealed files; - victims of coercive control are mislabeled as alienators; - and decisions affecting fundamental rights are made based on unsworn, unverified agency documents.

These outcomes directly contradict Idaho's public policy and constitutional commitments to family autonomy, child safety, and due process.

Legislative Duty and Authority

The Legislature possesses both the authority and the obligation to address systemic failures that undermine constitutional rights. Under Idaho's separation-of-powers framework, the Legislature sets procedural and substantive standards for custody adjudication, oversight structures, evidence requirements, evaluator licensure, and court transparency.

Where constitutional guarantees are consistently impaired, the Legislature must intervene to restore: - clarity, - uniformity, - transparency, - accountability, - and constitutional fidelity.

Synthesis Conclusion

The evidence presented to the Task Force compels one conclusion: Idaho's family-court system is not operating in constitutional alignment. The Legislature must modernize procedural safeguards, create enforceable oversight mechanisms, regulate evaluator authority, codify domestic-violence and coercive-control standards, and ensure access to justice regardless of wealth.

These systemic contradictions set the foundation for the legislative recommendations and reforms outlined in Section IV.

SECTION IV — Conclusions and Legislative Implications

1. Overarching Conclusion

The record compiled through the 2025 Task Force hearings reveals a family-court system operating outside constitutional, statutory, and evidentiary boundaries. Rather than reflecting isolated errors or individual misconduct, the testimony, administrative materials, and agency patterns establish a pervasive, statewide structural problem: the routine displacement of statutory safeguards and constitutional guarantees by discretionary practices, administrative shortcuts, and unreviewable decision-making.

Across Idaho, families encountered the same failures, extended temporary orders without hearings, sealing used to suppress error, evaluator decisions treated as binding, DHW documentation submitted unsworn, and judicial oversight mechanisms that provide no meaningful remedy. These uniform patterns demonstrate that the system’s failure is systemic, not episodic.

Idaho’s Constitution—particularly *Article I* §§ 1 (inalienable parental rights), 7 (justice without denial or delay), 9 (free speech and public scrutiny), 13 (due process of law), and 18 (open courts and remedy), requires a family-court system that is transparent, accessible, evidence-based, and protective of fundamental parental rights. The current structure does not meet those constitutional mandates.

Because the Legislature is the constitutional branch responsible for establishing procedural safeguards, regulating agencies, defining judicial standards, and ensuring uniform application of law, it holds both the authority and the obligation to correct structural failures that impair constitutional rights. The findings in Section III demonstrate a clear need for legislative action to

restore constitutional alignment, protect Idaho families, and modernize Idaho's family-court system.

2. Synthesis of Evidence

The cumulative record before the Task Force establishes that Idaho's family-court system is experiencing structural rather than isolated failure. Across all geographic regions, professional backgrounds, and case types, the same constitutional, statutory, and procedural contradictions appeared repeatedly. This consistency is the strongest possible indicator that reform must occur at the system level, not merely through individual disciplinary or administrative action.

A. Cross-Domain Convergence of Testimony

The consistency of testimony from parents, attorneys, social workers, law-enforcement professionals, and subject-matter experts reveals that Idaho's family-court failures are not confined to a particular courthouse, judge, evaluator, or CPS office. Rather, they reflect system-wide drift from the procedural and constitutional safeguards that should anchor custody adjudication. Key cross-domain patterns include: - temporary orders functioning as long-term adjudications without evidentiary hearings; - DHW and CPS documentation practices that contradict statutory mandates; - evaluator and parenting-coordinator roles performed without licensure, oversight, or evidentiary reliability; - domestic-violence and coercive-control evidence misclassified or ignored; - excessive sealing limiting transparency, appellate review, and constitutional remedy; - economic burdens that deny meaningful access to justice for large segments of the population.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

B. Uniform Conflicts with Idaho Law and Constitution

These patterns systematically conflict with the constitutional protections guaranteed by Idaho's Constitution, including: - *Article I, § 1* — parental liberty as a natural and fundamental right; - *Article I, § 7* — justice without denial or delay; - *Article I, § 9* — freedom of speech and the necessity of public scrutiny; - *Article I, § 13* — procedural due process; - *Article I, § 18* — open courts and accessible remedies; - *Article V* — limitations on judicial power and delegation.

These violations are not speculative, they were documented through sworn testimony, written exhibits, and administrative data provided to the Task Force. The absence of timely hearings, the denial of records, and the reliance on unsworn agency materials represent clear departures from constitutional due process. The role of unregulated evaluators represents unlawful delegation of judicial power. Sealing practices violate Idaho's open-courts doctrine and suppress avenues of remedy.

C. Implications for Children and Public Safety

Misclassification of domestic violence, failure to assess coercive control, and evaluator misuse directly expose children to harm. Parents testified to children experiencing untreated abuse, trauma, medical neglect, and psychological deterioration due to unconstitutional custody practices. Idaho's constitutional protections require that safety be paramount, yet current practice often inverts this principle.

D. Legislative Authority and Responsibility

Under Idaho's separation-of-powers structure, the Legislature establishes procedural rules, evidentiary requirements, and the limits of judicial discretion in family law. The Legislature is also the branch responsible for correcting unconstitutional systems and ensuring statewide

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

uniformity. Given the breadth and consistency of the issues identified, the Legislature possesses not only the authority but the constitutional responsibility to intervene.

E. Mandatory Audits and Reallocation of Judicial Oversight Authority

The Task Force finds that Idaho’s current judicial oversight structure lacks the capacity to identify or correct systemic constitutional violations in family-court proceedings. Legislative reform must therefore include mandatory, independent audits and a reallocation of oversight responsibility to bodies with appointment, evaluation, and retention authority.

The Legislature should require:

- A statutory audit of the Idaho Judicial Council’s complaint-handling framework, examining:
 - categories of complaints received,
 - dismissal rates based on “legal error,”
 - absence of referrals to appointing authorities, and
 - lack of public reporting on systemic trends.
- A constitutional-compliance audit of family-court practices statewide, including:
 - duration of temporary orders,
 - denial of hearings and motions,
 - frequency and justification of sealing orders,
 - access to transcripts and recordings, and
 - reliance on extra-statutory actors.
- A formal reassignment of systemic judicial oversight to Magistrate Commissions and other appointing bodies, with express authority to:
 - review patterns of constitutional noncompliance,

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- receive and evaluate complaints currently dismissed as “legal error,” and
- condition judicial retention on adherence to due-process standards; and
- refer judicial performance concerns—particularly where individual judges are repeatedly identified in testimony—to judicial appointing and retention bodies for independent review and corrective action where appropriate.

Without audit authority and performance-based accountability at the appointing level, Idaho’s family-court system cannot self-correct.

Synthesis Conclusion

The evidence demonstrates that Idaho’s family-court system has deviated from the procedural, constitutional, and evidentiary framework required to protect children and families. These findings justify comprehensive legislative reform to restore alignment with Idaho’s Constitution and the rule of law. The following sections outline the specific statutory and administrative reforms necessary to accomplish this mandate.

3. Legislative Implications

The Idaho Legislature is uniquely positioned—and constitutionally obligated—to correct the systemic failures documented throughout this report. Under Idaho’s constitutional structure, the Legislature sets the standards for procedure, evidence, judicial oversight, and agency authority. When constitutional guarantees are consistently violated across an entire branch of government, legislative intervention is not optional; it is required to restore compliance with the Idaho Constitution and to protect the rights and safety of Idaho families.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

A. Legislative Authority Under the Idaho Constitution

Idaho's Constitution assigns the Legislature the responsibility to: - define and regulate judicial procedures (*Art. V*), - establish administrative frameworks for executive agencies (*Art. II*), - safeguard fundamental rights (*Art. I §§ 1, 7, 9, 13, 18*), - ensure access to justice and uniformity in court processes, - and correct systemic violations that impair constitutional guarantees.

The evidence shows widespread conflicts between statutory law and judicial/administrative practice. These deviations weaken public trust, undermine due process, and expose the State to civil-rights liability.

B. Need for Statutory Clarification and Enforcement

Legislative action is required to: - impose clear timelines and evidentiary standards for temporary orders; - ensure sworn documentation and uniform investigative practices at DHW/CPS; - regulate evaluators, parenting coordinators, and reunification programs through licensure and oversight; - codify coercive control and ensure trauma-informed adjudication; - restore access to justice through right-to-counsel provisions and fee-balancing mechanisms; - limit sealing orders through strict statutory findings and mandatory review; - require independent oversight and transparent reporting from the Judicial Council; - ensure that courts comply with the Idaho Constitution's open-court and due-process mandates.

C. Implications for Judicial and Administrative Reform

The Legislature may: - create an independent oversight body for custody evaluators and parenting coordinators; - mandate public reporting of judicial performance metrics; - require that judges receive specialized training in domestic violence, coercive control, and trauma; - clarify disqualification procedures so judges cannot rule on their own bias; - restructure Idaho Court

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Administrative Rules where they conflict with constitutional requirements; - require DHW/CPS to adhere to Idaho APA standards for documentation, hearings, and record retention.

D. Implications for Child Safety and Public Confidence

The Legislature has a compelling interest in ensuring that custody determinations prioritize: - child safety, - constitutional due process, - parental rights, - and transparent judicial decision-making.

Testimony revealed that current practices endanger children, destabilize families, and erode trust in Idaho's judicial system. Legislative clarification of standards and accountability mechanisms will strengthen public confidence and safeguard Idaho's most vulnerable children.

Legislative Implications Conclusion

The Legislature must modernize Idaho's family-court statutes, agency procedures, oversight structures, and evidentiary rules to realign the system with Idaho's Constitution and the rule of law. The reforms outlined in Section V offer a practical and constitutionally grounded pathway toward that objective.

4. Scholarly and Empirical Justification

Legislative reform must be grounded not only in constitutional mandates and testimonial evidence but also in established empirical research and national best-practice standards. The cross-disciplinary findings presented to the Task Force align with decades of scholarship in judicial administration, child welfare, trauma science, and domestic-violence research.

Collectively, these sources reinforce that Idaho's family-court system is operating contrary to evidence-based norms and that statutory reform is both justified and urgently required.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

A. National Judicial-Administration Research

Studies published by the National Association for Court Management (NACM) and the National Center for State Courts (NCSC) identify several indicators of systemic court dysfunction—many of which mirror Idaho’s current patterns: - prolonged temporary orders without timely review, - excessive sealing of records, - inconsistent judicial decision-making, - opaque oversight mechanisms, - and reliance on non-statutory actors to perform quasi-judicial functions.

These findings confirm that Idaho’s shortcomings are measurable, remediable, and well-documented within judicial-administration literature.

B. Domestic Violence and Trauma Science

Research from the National Institute of Justice, the UN Special Rapporteur on Violence Against Women, and leading trauma psychologists demonstrates that: - coercive control is a primary predictor of child and parental harm; - failure to recognize coercive control leads to unsafe reunification orders; - evaluators without DV and trauma training frequently misinterpret protective behavior as hostility or alienation; - the misuse of “parental alienation” constructs disproportionately harms victims of abuse.

Idaho’s current statutory framework—lacking coercive-control recognition and DV-specific training requirements—conflicts with these well-established scientific standards.

C. Child-Welfare and Social-Work Research

Empirical studies published by the U.S. Department of Health and Human Services (HHS) show that: - unsworn or inconsistent child-welfare documentation results in wrongful findings and unsafe placements; - the absence of uniform investigative protocols disproportionately harms

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

vulnerable families; - kinship placements produce significantly better child outcomes than non-relative placements.

Idaho testimony reflects identical patterns: inconsistent documentation, missing reports, and refusals to honor statutory kinship-placement preferences. These failures contradict child-welfare best practices and increase risk to children.

D. Access-to-Justice Research

The National Center for Access to Justice (NCAJ) and state OPE reports demonstrate that: - lack of representation in high-stakes civil cases is strongly correlated with adverse outcomes; - economic disparities create systemic inequities in custody adjudication; - unregulated court-appointed experts intensify costs and procedural complexity.

The Idaho Legislature therefore has empirical justification for reforms addressing cost barriers, transcript access, evaluator regulation, and limited-scope representation.

E. Comparative State and International Models

States such as Kentucky, Arkansas, Washington, and Hawaii have enacted evidence-based reforms—coercive-control statutes, evaluator-licensing requirements, shared-parenting presumptions with safeguards, and transparency measures—that have produced measurable improvements in: - litigation duration, - child-safety outcomes, - public confidence, - and uniformity in judicial decision-making.

International frameworks and the UN Rapporteur’s findings further confirm that Idaho’s challenges are consistent with global patterns in family-court failure—and that solutions are well-established.

Scholarly Conclusion

Idaho's systemic contradictions are not merely constitutional violations; they are also empirically recognized markers of institutional malfunction. National scholarship, trauma science, child-welfare research, and comparative-law analysis converge on the same conclusion: Idaho's family-court system must undergo structural modernization to comply with constitutional standards and to protect the safety and rights of children and families.

These scholarly findings directly support the legislative reforms outlined in Section V.

SECTION V — Written Testimony

Introduction

Section V provides a structured synthesis of the more than one hundred written testimonies submitted to the Idaho Child Custody and Domestic Relations Task Force. These submissions came from parents, grandparents, youth, law-enforcement officers, mental-health professionals, social workers, attorneys, domestic-violence specialists, scholars, and subject-matter experts. Together, they form the most comprehensive body of family-court experiential data ever assembled in Idaho.

To protect the safety, privacy, and legal interests of individuals who provided testimony, no individual victims or families are identified in this report. All written and oral testimony is presented in anonymized form and summarized by role or thematic content only. Supporting documentation, including transcripts, filings, medical records, and contemporaneous communications, was reviewed by the Task Force but is not reproduced here. This approach preserves the integrity of the evidentiary record while preventing retaliation, re-traumatization, or misuse of personal information.

The subsections that follow organize testimony into domains consistent with the legal and constitutional analysis of Sections II–IV, including: - Temporary orders and due process; - Judicial oversight and misconduct patterns; - DHW/CPS documentation failures; - Evaluator and parenting-coordinator misconduct; - Domestic violence and coercive control; - Attorney and prosecutorial misconduct; - Economic coercion and access-to-justice barriers; - Sealing, transparency, and procedural obstruction.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Each subsection includes: 1. A brief summary of patterns observed, 2. Representative testimony excerpts, and 3. A statement of relevance to Idaho constitutional protections.

This format ensures the testimony is not merely descriptive, but legally operative demonstrating how widespread experiential accounts align with the constitutional violations and statutory contradictions outlined earlier in this report.

A. Testimony Related to Temporary Orders & Due Process

Summary of Testimonial Pattern

Testimony revealed that temporary orders routinely lasted months or years, functioned as de facto final adjudications, and were issued or maintained without evidentiary hearings. Parents described blackout periods, loss of custody without trial, and procedural delays that directly contradicted Idaho's due-process protections. Youth testimony revealed that children are frequently excluded from proceedings that directly affect their safety, stability, and wellbeing. Idaho law lacks a consistently applied, uniform mechanism ensuring that children's voices are heard in a developmentally appropriate and trauma-informed manner. Excluding children from custody proceedings implicates *Article I, § 1* protections and undermines child-centered adjudication.

Representative Testimonies

- Testimony reported year-long temporary restrictions without a hearing, preventing contact with a child despite exculpatory evidence.
- Testimony reported temporary orders issued without notice that resulted in long-term loss of custody.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Testimony reported delays that extended beyond a year, despite statutory requirements for timely adjudication.
- Testimony reported described the emotional harm and isolation experienced under prolonged temporary placements.

Constitutional Relevance

These experiences demonstrate widespread violations of *Idaho Const. Art. I §§ 1, 13, and 18*, confirming the due-process failures outlined in Section II.

B. Testimony Regarding Judicial Oversight, Bias & Accountability

Summary of Testimonial Pattern

Parents, attorneys, and professionals described consistent patterns of judicial retaliation, sealing used to suppress error, inconsistent rulings, refusal to recuse despite conflicts, and judges ruling on their own disqualification motions.

Representative Testimonies

- Testimony documented retaliation following attempts to report judicial misconduct.
- Testimony reported selective leaking of sealed materials by a judge while she was threatened for discussing her own case.
- Testimony reported widespread intimidation preventing attorneys from representing her.
- Testimony identified structural failures in the Judicial Council's secrecy and scope.

Constitutional Relevance

These patterns illustrate violations of *Art. I §§ 7, 13, 18* and *Art. V*, which require impartial tribunals, open courts, and judicial accountability.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

B.1 Judges Repeatedly Identified in Testimony

Throughout the Task Force proceedings, multiple witnesses identified specific Idaho family-court judges by name in connection with alleged patterns of conduct that raise serious constitutional and oversight concerns. These references were not isolated or incidental; rather, they appeared across multiple hearings, written submissions, and geographic regions.

The Task Force emphasizes that inclusion of judicial names in this section reflects the content of sworn testimony and written submissions, not findings of misconduct by the Legislature. Determination of individual culpability remain the responsibility of appropriate investigative and adjudicative bodies. However, the frequency and consistency with which certain judges were identified is itself relevant to the Task Force's mandate to assess systemic failures and oversight gaps.

Judges most frequently identified in testimony include:

- Ada County Magistrate Judge Diane Walker, who was named in multiple testimonies alleging prolonged temporary orders, denial of evidentiary hearings, including allegations that parents were jailed pursuant to family-court orders without due-process safeguards, retaliatory sealing of records, suppression of domestic-violence evidence, and conduct perceived by litigants as punitive towards parents.
- Kootenai County Magistrate Judge Clark Peterson, who was referenced in testimony alleging procedural irregularities, denial of due-process protections, and inconsistent application of statutory custody standards.
- Ada County Magistrate Judge Kyle Schou, who was identified in testimony alleging extended temporary orders without adjudication, including allegations that parents were jailed

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

pursuant to family-court orders without due-process safeguards, refusal to permit testimony, refusal to permit witnesses, sealing practices that obstructed appellate review, and conduct perceived as dismissive of statutory and constitutional safeguards.

Testimony concerning these judges was submitted by parents, attorneys, and professionals and frequently included supporting documentation such as transcripts, court filings, medical records, and contemporaneous communications.

The Task Force does not attribute systemic failure to any single judge. However, the recurrence of the same judicial names across independent testimonies underscores the central finding of this report: Idaho's current oversight framework is incapable of identifying, correcting, or responding to patterns of alleged constitutional harm when they arise.

In a functioning accountability system, repeated allegations concerning the same judicial actors—particularly when involving fundamental parental rights—would trigger transparent review, performance evaluation, or referral to appointing authorities. Testimony demonstrated that no such mechanism exists in Idaho's family-court system.

C. Testimony Regarding DHW/CPS Documentation & Investigative Failures

Summary of Testimonial Pattern

Testimony submitted to the Task Force revealed a statewide pattern of incomplete, inaccurate, altered, or entirely missing DHW/CPS documentation. Families described investigations closed within hours without statutory inquiry, mandatory hearings skipped, kinship placements ignored, and critical evidence—including medical reports and photographs—excluded from agency files. These failures were not confined to one region; they appeared consistently across Ada, Canyon,

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Bonneville, Kootenai, Bonner, Twin Falls, and Bannock Counties, demonstrating systemic rather than localized deficiencies.

Representative Testimonies

- Testimony reported that medical evidence of abuse was removed from her CPS file, and multiple required hearings never occurred.
- Testimony reported the removal of her medically fragile infant against medical advice, with no sworn evidence and no shelter-care hearing under *Idaho Code § 16-1615*.
- Testimony documented that DHW refused a fully approved kinship placement, placing the child with non-relatives in violation of Idaho's statutory preference for kin.
- Testimony provided evidence of child abuse and neglect that CPS ignored, while simultaneously responding immediately to a false report from the other parent.
- Testimony reported multigenerational family harm caused by CPS failure to investigate credible abuse allegations.

Constitutional Relevance

These accounts reveal structural violations of: - *Art. I, § 13* — due process, when CPS acts without evidence or required hearings; - *Art. I, § 18* — denial of remedy when records are withheld or altered; - *Art. I, § 1* — infringement on natural and fundamental parental rights; - Idaho APA — failure to follow uniform investigative and documentation standards.

These lived experiences directly support the administrative law and constitutional defects outlined in Section II.

D. Testimony Regarding Evaluator & Parenting Coordinator Misconduct

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Summary of Testimonial Pattern

Written testimony revealed a pervasive and statewide failure in the operation, oversight, and evidentiary reliability of custody evaluators, parenting coordinators (PCs), and reunification providers. Idahoans consistently described these privately contracted actors as functioning like de facto judges—issuing binding directives, shaping custody outcomes, and influencing judicial decisions—without statutory authority, licensing requirements, or constitutional accountability.

Patterns identified across testimony include: - Evaluations completed without interviewing children, despite being used to overturn custody or restrict parenting time. - Alienation findings applied without scientific validity, often to discredit protective parents, especially victims of coercive control or domestic violence. - Trauma-blind assessments that ignored abuse disclosures, medical records, or psychological symptoms. - Financial coercion, including \$6,000–\$12,000 retainers and ongoing fees that exceeded mortgage payments. - Undisclosed conflicts of interest, including evaluator–attorney relationships and involvement in AFCC-aligned programs without transparency. - Parenting coordinators issuing quasi-judicial directives, including, visitation restrictions, despite having no statutory authority to do so.

Representative Testimonies

- Testimony described evaluator practices that contradicted trauma science and ignored disclosures from children.
- Testimony documented how evaluator dismissed a father’s DUI with Injury to a Child, ignored child statements, and relied on an evaluator network tied to the opposing party.
- Testimony testified to evaluator bias and intimidation, where more than 10 attorneys refused to take her case due to judicial-originated pressures.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Testimony documented evaluator findings that were inconsistent with medical evidence and law enforcement reports.
- Testimony reported an evaluator's use of alienation concepts to remove her children despite documented abuse by the other parent.

Constitutional Relevance

Evaluator and PC misconduct directly implicates Idaho's constitutional structure: - *Art. V* — Judicial Power: Delegating quasi-judicial authority to private actors without statutory authorization violates Idaho's separation of powers. - *Art. I, § 13* — Due Process: Parents cannot be deprived of custody based on unverified evaluations or decisions by individuals who are not constitutionally empowered to adjudicate rights. - *Art. I, § 18* — Open Courts: Evaluators operate without transparency, records, or appellate pathways, depriving parents of meaningful remedy. - *Art. I, § 1* — Fundamental Parental Rights: Biased or scientifically unsupported evaluator conclusions that dictate custody outcomes infringe on natural parental rights.

The testimony in this domain illustrates why evaluator reform, licensure, evidentiary standards, and oversight structures are constitutionally necessary.

E. Testimony Regarding Domestic Violence, Coercive Control & Trauma Misclassification

Summary of Testimonial Pattern

Testimony across Idaho illustrates a pervasive and deeply consequential pattern: courts routinely fail to recognize, understand, or appropriately weigh domestic violence and coercive control, instead reframing these cases as “high conflict.” This linguistic and conceptual misclassification

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

distorts evidentiary evaluation, undermines child safety, and violates Idaho’s constitutional guarantees of parental rights, due process, and safety.

Victims consistently reported that: - credible DV evidence—including photographs, medical records, police reports, and video recordings—was dismissed or ignored; - disclosures of coercive control were treated as exaggeration or “communication problems” rather than documented patterns of domination and harm; - attempts to protect children resulted in accusations of alienation or obstruction; - trauma symptoms were misinterpreted as instability, hostility, or non-cooperation; - abuse perpetrators were rewarded with expanded parenting time while victims were restricted or sanctioned.

Representative Testimonies

- Testimony reported producing video evidence of stalking, animal abuse, and credible threats—yet the case was dismissed based on a falsified disability affidavit, leaving her without protection.
- Testimony detailed repeat instances where DV disclosures and medical documentation were omitted from CPS files and ignored by the court.
- Testimony recounted prolonged coercive-control dynamics dismissed as “relationship conflict,” resulting in adverse rulings that contradicted evidence.
- Testimony reported being penalized for raising legitimate safety concerns, with the court labeling protective actions as alienating behavior.
- Testimony provided photographic and testimonial evidence of child abuse that was disregarded while the abusive parent’s filings were prioritized.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Testimony recounted that the court refused to meet with her or consider letters detailing coercive control by a parent.

Constitutional Relevance

The mishandling of DV and coercive-control evidence implicates multiple provisions of the Idaho Constitution:

- *Article I, § 1* — Inalienable Rights (Safety, Liberty, Happiness) Victims testified unanimously that coercive control undermined their personal safety, mental well-being, and ability to parent safely—direct violations of §1’s protections.
- *Article I, § 13* — Due Process of Law - When courts ignore or exclude DV evidence, rely on unsworn claims, or substitute alienation theories for safety analysis, they fail to provide the fair process required before restricting parental rights.
- *Article I, § 18* — Open Courts & Remedy Victims frequently reported an inability to obtain a meaningful remedy, as courts denied protective orders, dismissed emergency motions, or sealed critical records.
- Idaho Supreme Court Fundamental Rights Doctrine - Idaho’s jurisprudence requires strict protection of a parent’s right to safeguard their child. Failing to weigh DV evidence contradicts this doctrine and increases risk to children.

Trauma Science & National Standards

Domestic-violence scholarship and trauma psychology confirm that: - victims often present as anxious, emotional, or inconsistent due to trauma—not dishonesty; - coercive control predicts lethality and child harm more accurately than isolated incidents of physical violence; - alienation

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

claims are frequently misused against protective parents in DV cases; - trauma-blind assessments produce unsafe custody outcomes.

Peer-state reforms, including Washington's HB 1901 and Hawaii's SB 1419, codify coercive control, require judicial training, and prohibit reunification penalties against DV victims. Idaho has none of these protections, placing victims and children at elevated risk.

Legal Conclusion

Testimony in this domain demonstrates that Idaho's failure to recognize and properly evaluate domestic violence and coercive control results in: - infringement of *Art. I § 1* parental and personal liberty, - violation of *Art. I § 13* due-process rights, - denial of *Art. I § 18* access to remedy, - systemic deviation from national DV standards.

These failures justify statutory reforms clarifying DV evaluation standards, codifying coercive control, mandating judicial and evaluator training, and ensuring that protective actions cannot be misconstrued as alienation.

F. Testimony Regarding Attorney & Prosecutorial Misconduct

Summary of Testimonial Pattern

Across Idaho, written testimony revealed systemic ethical failures among attorneys and prosecutors practicing in family-law and related proceedings. Parents and professionals described a pattern in which knowingly false allegations, altered documents, intimidation tactics, and retaliatory litigation strategies were tolerated—and in some cases enabled—by judicial inaction. These practices distorted judicial outcomes, burdened protective parents, and undermined trust in the legal system.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Most critically, testimony demonstrated that attorney misconduct was not incidental but strategic—often deployed to gain advantage in custody disputes or to exhaust the financial and emotional resources of the opposing party. Such conduct occurred without meaningful oversight, sanctions, or corrective procedures, even when the misconduct directly affected children’s safety or parental rights.

Representative Testimonies

- Testimony reported widespread refusal among attorneys to represent her, citing fear of judicial retaliation, and documented repeated false filings submitted by opposing counsel.
- Testimony reported that her ex-partner’s attorney knowingly submitted altered evidence and made demonstrably false statements during hearings, resulting in ongoing litigation harm.
- Testimony recounted prosecutorial misconduct involving misrepresentation of sealed case materials and coordination between opposing counsel and state actors.
- Testimony detailed prosecutorial conflicts of interest, failures to disclose evidence, and constitutional violations under *State v. Bell*, showing the breadth of misconduct beyond civil matters.
- Multiple testimonies described attorney coaching to weaponize CPS hotlines, manipulate protection-order filings, or fabricate alienation claims to disadvantage protective parents.

Constitutional Relevance

Attorney and prosecutorial misconduct in Idaho’s family-court system implicates several constitutional provisions:

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- *Article I, § 13* — Due Process of Law - When attorneys submit false evidence, misrepresent facts, or obstruct access to truthful information, they deprive parents of the fair process required before restricting a fundamental liberty interest. Courts that accept such filings without scrutiny magnify the due-process violation.
- *Article I, § 18* — Open Courts & Remedy - Fabricated filings, discovery obstruction, and retaliatory litigation impede a parent's ability to access a meaningful remedy. Testimonies showed that misconduct frequently blocked appeals, delayed hearings, or forced protective parents to abandon litigation due to financial exhaustion.
- *Equal-Protection Principles under Idaho Law* - Testimony showed instances where one party was sanctioned for minor procedural lapses while the opposing party's fabrications were overlooked. This unequal treatment of similarly situated litigants raises constitutional concerns and violates Idaho's commitment to fair and impartial administration of justice.

Legal and Ethical Implications

Under *IRPC* 3.3 (Candor to the Tribunal), 3.1 (Meritorious Claims), and 8.4 (Misconduct), attorneys are prohibited from deceitful or dishonest conduct. Yet testimony demonstrated that these rules were rarely enforced, creating an environment where unethical advocacy shapes judicial outcomes.

Prosecutorial misconduct, particularly failures to disclose evidence and conflicts of interest—extends the pattern into criminal and quasi-criminal proceedings, showing that the problem spans multiple legal domains.

Conclusion

Attorney and prosecutorial misconduct erodes constitutional guarantees, distorts judicial outcomes, and undermines Idahoans' access to justice. Legislative reforms—such as mandatory sanctions for proven false filings, independent review mechanisms, and protections against retaliatory litigation—are necessary to restore integrity, fairness, and constitutional compliance in Idaho's family-court system.

G. Testimony Regarding Economic Coercion & Barriers to Justice

Summary of Testimonial Pattern

Across every judicial district, Idaho parents described a pervasive and constitutionally significant pattern: the cost of accessing justice in family court routinely exceeds a family's financial capacity, resulting in coerced custody concessions, inability to defend against false allegations, forfeiture of appellate rights, and long-term financial devastation. Economic pressure was repeatedly used—intentionally or structurally—as a tool that shaped custody outcomes more powerfully than evidence or statutory standards.

Common themes included: - litigation expenses reaching \$50,000–\$250,000 within a year; - evaluator and parenting coordinator retainers of \$6,000–\$12,000 plus hourly charges; - supervised visitation fees exceeding a parent's monthly housing costs; - transcript and audio fees that made appeals impossible; - loss of housing, employment, health, and savings due to prolonged litigation; - one party using financial superiority to generate excessive filings and motions to wear down the other.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Testimony demonstrated that Idaho's family courts have effectively become a pay-to-participate system, where parental rights are contingent upon financial endurance rather than evidentiary merit.

Representative Testimonies

- Testimony reported near bankruptcy after repeated evaluator fees and court motions, despite having no findings of wrongdoing.
- Testimony reported having to choose between continuing litigation or maintaining housing and medical care.
- Testimony documented how the opposing parent's higher income enabled repeated filings and court actions that she could no longer afford to defend.
- Testimony explained that economic exhaustion forced her into settlement positions that did not reflect safety realities for her or her child.
- Testimony detailed transcript fees and sealing barriers that prevented meaningful appeal, despite significant constitutional issues.
- Testimony paid child support for seven years without being granted established paternity rights, a structural economic and constitutional injury.

Constitutional Relevance

The economic barriers described constitute violations of multiple provisions of the Idaho Constitution:

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- *Article I, § 13* — Due Process of Law - Parents cannot defend a fundamental liberty interest—custody and care of a child—when the cost of participation exceeds their financial capacity.

Economic exhaustion that effectively removes a parent from litigation constitutes a constructive due-process violation.

- *Article I, § 18* — Open Courts & Remedy for Every Injury - The remedy clause mandates that courts be accessible to all Idahoans. When litigation costs, transcript fees, evaluator payments, and supervised-visit charges functionally block access to appeals or hearings, the constitutional right to a remedy is violated.

- *Article I, § 7* — Justice Without Sale, Denial, or Delay - When justice is obtainable only by those who can afford to remain in litigation, Idaho’s constitutional prohibition against the sale of justice is implicated. Numerous parents testified that outcomes were dictated not by facts but by financial stamina.

Structural Implications

Economic coercion undermines the legitimacy of every other legal and constitutional safeguard.

Even when statutory protections exist, they are meaningless if: - a parent cannot afford to challenge violations; - evidence cannot be submitted or rebutted due to cost; - appeals cannot proceed without purchasing transcripts; - evaluator errors cannot be contested without expensive second opinions.

Legal Conclusion

The testimony in this domain confirms that Idaho’s family-court system imposes economic burdens that violate: - *Art. I §13* — due process, - *Art. I §18* — access to justice and remedy, - *Art. I §7* — prohibition on justice being denied or sold.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

These systemic barriers justify legislative reforms, including fee-balancing statutes, right-to-counsel provisions, evaluator fee caps, transcript waivers, and oversight mechanisms to ensure that economic status does not determine a parent's ability to protect their constitutional rights or their child's safety.

H. Testimony Regarding Sealing, Transparency Failures & Procedural Obstruction

Summary of Testimonial Pattern

Testimony revealed a statewide crisis of transparency in Idaho's family-court system. Parents, professionals, and advocates consistently reported that judges used sealing orders, transcript denials, audio withholding, and case-level secrecy not to protect children, as required by law, but used in ways that have the effect of shielding judicial error or preventing meaningful review, evaluator misconduct, or unconstitutional decision-making. These patterns obstruct appellate review, silence litigants, and prevent public accountability, violating Idaho's constitutional guarantees of open courts, free expression, due process, and parental liberty.

Common transparency failures included: - entire cases sealed without statutory findings; - parents denied access to their own filings, transcripts, or recordings; - sealed materials selectively leaked by judges to third parties while punishing parents for discussing their own case; - sealing used immediately after allegations of judicial misconduct or improper conduct by evaluators; - transcript delays that made appeals impossible within required timelines; - gag-like restrictions imposed on litigants, preventing them from seeking help or reporting concerns.

Representative Testimonies

- Testimony documented that sealed materials from another case were leaked by a judge, while she was threatened with contempt for referencing her own filings—an unconstitutional double standard.
- Testimony testified that sealed records prevented her from filing a Judicial Council complaint, as the evidence of procedural violations was inaccessible.
- Testimony reported being denied transcripts necessary to appeal, resulting in the permanent loss of custody without appellate review.
- Testimony provided evidence that the Judicial Council’s secrecy and limited jurisdiction made it impossible for victims to obtain remedy.
- Testimony identified the statewide misuse of sealing to conceal structural failures rather than protect families.

Constitutional Relevance

The transparency failures documented in testimony implicate multiple provisions of the Idaho Constitution: *Article I, § 18 — Open Courts & Remedy for Every Injury - Sealing entire cases without written justification, withholding transcripts, and denying access to evidence directly violate § 18, which mandates open courts and meaningful access to remedy.*

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- *Article I, § 9* — Freedom of Speech and Press - Threatening litigants for referencing their own filings, or using sealing to chill public criticism, violates constitutional protections against government suppression of speech.
- *Article I, § 13* — Due Process of Law - Without access to the record, parents cannot challenge custody decisions, prepare appeals, or prove procedural violations—rendering due process unattainable.
- *Article I, § 1* — Inalienable Parental Rights - When sealing conceals evidence relevant to a child’s safety or parental fitness, it directly impedes the exercise of natural and essential parental rights.

Structural Implications

Transparency failures undermine all other constitutional and statutory protections. Even when laws exist to ensure fairness, their value collapses when litigants cannot access: - evidence, - transcripts, - audio recordings, - evaluator reports, - or judicial orders.

Without transparency, appellate courts, the Judicial Council, and the public cannot identify or correct systemic misconduct.

Legal Conclusion

Testimony in this domain demonstrates that Idaho’s sealing and transparency practices violate: - *Art. I §18* — the open-court and remedy mandate, - *Art. I §9* — speech and public oversight, - *Art. I §13* — due process, - *Art. I §1* — parental liberty.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Legislative reforms—including strict statutory limits on sealing, mandatory written findings, transcript-access guarantees, and timelines for disclosure—are necessary to restore constitutional compliance and judicial accountability.

I. Testimony Regarding Systemic Patterns & Public Trust Collapse

Summary of Testimonial Pattern

Perhaps the most striking theme across the written testimony was not tied to any single procedure, agency failure, or legal doctrine—but to a profound, statewide collapse of public trust in Idaho’s family-court system. Parents, grandparents, youth, mental-health professionals, law-enforcement officers, and advocates described a system they believed to be retaliatory, unpredictable, financially punitive, and insulated from accountability.

This loss of public confidence is not an abstract policy concern. It is a constitutionally significant harm that undermines the legitimacy of the judiciary under Idaho’s Constitution, erodes compliance with court orders, and destabilizes the families the system is meant to protect.

Representative Testimonies

- Parents across all districts expressed fear of retaliation for filing motions, complaints, or even speaking in court. Many reported modifying their testimony or withholding evidence to avoid judicial punishment.
- Testimony reported being unable to secure legal representation because attorneys feared judicial reprisal, leaving her effectively silenced in proceedings that determined the fate of her child.
- Testimony reported that secrecy, sealing, and denial of transcripts convinced them the courts were protecting their own institutions—not children or constitutional rights.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Youth testimony described fear, lack of voice, and disbelief that a court could ignore her safety disclosures, contributing to her perception that the system was “rigged” or indifferent.
- Professionals, including former law-enforcement officials, testified that they no longer trusted the family-court process and warned legislators that the system is harming victims and rewarding egregious conduct.
- Multiple families reported being warned not to speak to the media, legislators, or even their own support systems, creating an environment of coercion and silence surrounding family-court operations.

Constitutional Relevance

The collapse of public trust is a constitutional concern because it implicates:

- *Article I, § 18* — Open Courts & Remedy

Courts must operate transparently to maintain legitimacy. When patterns of secrecy, retaliation, and arbitrary rulings erode public trust, the constitutional command for open courts is violated not just procedurally but philosophically.

- *Article I, § 7* — Administration of Justice Without Denial or Delay

Public trust is a required precondition for the effective administration of justice. When citizens believe courts operate with favoritism, retaliation, or secrecy, justice is functionally denied.

- *Article I, § 9* — Freedom of Speech

Threats of sanction for discussing one’s own case—or for contacting legislators—constitute unconstitutional suppression of speech and inhibit public accountability.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- *Article I, § 1* — Inalienable Rights

When families believe the court will not protect them or their children, they lose faith in the State's ability to safeguard their fundamental rights to safety, happiness, and liberty.

Structural Implications

A judiciary that lacks public confidence cannot fulfill its constitutional mission. Testimony demonstrated that Idaho's family-court system: - discourages reporting of judicial misconduct; - inhibits participation in hearings due to fear of retaliation; - undermines the credibility of rulings due to inconsistent or secretive procedures; - reduces compliance with court orders when parents believe the system is unjust; - stacks disadvantage against less-resourced litigants who feel unable to advocate for their rights.

These harms extend beyond individual cases—they represent a systemic legitimacy crisis that only the Legislature has the constitutional authority to remedy.

Legal Conclusion

The testimony in this domain establishes that Idaho's family-court practices have produced a widespread and constitutionally significant erosion of public trust. This trust cannot be restored through isolated disciplinary actions or local administrative changes. It requires comprehensive statutory reform, transparent oversight structures, and procedural safeguards that bring Idaho's family courts back into alignment with the constitutional principles articulated in *Article I §§ 1, 7, 9, 13, and 18*.

SECTION VI — Issue-Based Findings & Summaries

Introduction

Section VI synthesizes the legal analysis (Section II), constitutional interpretation (Section III), legislative implications (Section IV), and testimonial evidence (Section V) into issue-based summaries. These summaries are written in a format specifically designed for Idaho legislators, policy staff, judicial-oversight bodies, and law reform analysts. Each issue summary distills: - the core legal contradiction; - Idaho constitutional provisions implicated; - statutory or rule conflicts; - representative testimony patterns; and - legislative needs or implications.

These issue areas were expressly reaffirmed by Task Force members during the December 10, 2025, public synthesis hearing as reflecting the most persistent and constitutionally significant failures identified throughout the 2025 proceedings.

These summaries provide a clear, structured reference framework for legislative decision-making and constitute the analytical bridge between the evidentiary record, the Task Force’s December 10, 2025 legislative synthesis hearing, and the forthcoming statutory recommendations.

Issue Summary 1 — Temporary Orders & Due Process

Summary of Systemic Issue

Temporary custody orders in Idaho were designed to serve as short-term, emergency measures. Yet testimony from every region of the state demonstrated that these orders routinely remain in place for months or years, often without evidentiary hearings, written findings, or meaningful judicial review. As a result, temporary orders frequently operate as de facto final custody determinations—entered without the constitutional safeguards required for permanent decisions.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

This practice is structurally incompatible with Idaho's constitutional protections and statutory mandates.

Constitutional Conflicts

Extended temporary orders violate multiple provisions of the Idaho Constitution, including: -

Art. I, § 1 — Inalienable Parental Rights: Parents have a natural and fundamental right to raise their children. Long-term deprivation of custody under temporary orders infringes this right

without adequate proof. - *Art. I, § 13* — Due Process: Parents are entitled to notice, an

opportunity to be heard, and decisions grounded in reliable evidence. Prolonged temporary

orders without evidentiary hearings violate these due-process requirements. - *Art. I, § 18* —

Open Courts & Remedy: When temporary orders remain in place for years due to judicial delays

or procedural obstruction, the constitutional guarantee of a prompt and meaningful remedy is

denied. - *Art. I, § 7* — Justice Without Denial or Delay: Lengthy temporary orders with no path

to adjudication directly conflict with the constitutional command that justice be neither delayed nor obstructed.

Statutory and Rule Conflicts

- IRFLP 504 anticipates the rapid scheduling of evidentiary hearings. Idaho courts often fail to meet these requirements.
- IRFLP 704 & 705 (evidence rules) are undercut when decisions are made on affidavits rather than sworn testimony.
- Title 32, Idaho Code emphasizes child best interests, which cannot be determined through prolonged informal orders.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

These contradictions show that Idaho's family courts are not following the statutory framework the Legislature established.

Testimonial Patterns

Written and oral testimony overwhelmingly confirmed the systemic nature of this problem: - reported being isolated from a protective parent under a temporary order that lasted more than a year. – Testimony described blackout periods with no evidence-based justification. - Testimony reported temporary orders issued without notice or hearing. - Testimony documented extensive delays extending beyond statutory timelines. - Multiple families indicated that the temporary phase became the entire case, with no meaningful adjudication ever occurring.

Empirical Benchmarks

National research (NACM, NCSC) establishes that any temporary order exceeding 90 days without review violates prompt-justice standards. Idaho testimony confirms that courts often exceed these benchmarks by a factor of 3x to 10x.

Legislative Implications

To restore constitutional and statutory compliance, the Legislature should: - impose strict timelines for evidentiary hearings (e.g., 30–60 days); - require written findings before a temporary order may be extended; - create a mechanism for interlocutory appeal when temporary orders exceed constitutional limits; - require judges to document why an evidentiary hearing has not occurred; - establish data reporting so duration of temporary orders can be monitored statewide.

Issue Summary Conclusion

Temporary orders in Idaho have drifted far beyond their lawful purpose. The Legislature must intervene to ensure that temporary custody arrangements remain temporary, constitutionally sound, and subject to meaningful evidentiary review. This is foundational to any broader reform of Idaho's family-court system. Task Force legislators repeatedly identified this issue as a top priority during synthesis discussions, citing its cascading effects on child stability, economic equity, and due-process integrity.

Issue Summary 2 — Judicial Oversight, Bias & Accountability Failures

Summary of Systemic Issue

The testimony revealed that Idaho's judicial-oversight structure is constitutionally insufficient and functionally ineffective. Idaho's Judicial Council investigates only misconduct, not legal error, and operates with strict confidentiality. Combined with courts' expansive sealing practices, limited recusal standards, and judge's ruling on their own disqualification motions, the current framework fails to provide the independent, transparent oversight required by Idaho's Constitution.

Parents, attorneys, and professionals reported uniform experiences of judicial retaliation, bias, and unreviewable discretion. These patterns were not confined to any particular district—indicating a structural rather than localized failure.

Testimony naming specific judges—including repeated references to the same individuals across cases—demonstrated that the absence of transparent performance review mechanisms allows alleged patterns of constitutional harm to persist without scrutiny.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Constitutional Conflicts

Judicial-oversight failures implicate multiple provisions of the Idaho Constitution: - *Art. I, § 18* — Open Courts & Remedy: Oversight mechanisms must be accessible, transparent, and capable of providing a meaningful remedy. The Judicial Council’s secrecy and limited jurisdiction obstruct this clause. - *Art. I, § 7* — Justice Without Denial or Delay: Retaliation, sealing, and refusal to hear motions constitute unconstitutional denial of justice. - *Art. I, § 13* — Due Process: A litigant cannot receive due process when the judge hearing the case is also the arbiter of motions alleging their own bias. - *Art. V* — Judicial Power Limits: Judicial authority cannot be exercised without accountability or review. Current oversight structures violate separation-of-powers norms by insulating the judiciary from constitutional checks.

Statutory Conflicts & Procedural Failures

- IRFLP 109 allows judges to rule on their own disqualification motions—contradicting due-process principles.
- Judicial Council statutes (Title 1, Ch. 21) prevent review of legal error, even when repeated patterns of bias or misconduct emerge.
- ICAR 32 requires transparency, yet court sealing practices often eliminate access to records needed to report or evaluate judicial performance.

Testimonial Patterns

- Testimony documented retaliation after attempting to report judicial misconduct.
- Testimony reported a judge selectively leaking sealed materials while threatening her for referencing her own case.
- Testimony testified that attorneys refused representation due to fear of judicial reprisal.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Testimony reported judicial hostility and refusal to hear motions alleging due-process violations.
- Testimony identified structural deficiencies in the Judicial Council, including inability to review legal error or issue meaningful corrective action.

These testimonies reveal a judicial culture in which unchecked discretion and retaliatory practices undermine constitutional guarantees.

Empirical Benchmarks

National models (including ABA recommendations, California's CJP structure, and NCSC research) require: - independent oversight bodies; - public reporting of judicial discipline data; - transparent complaint processes; - recusal procedures adjudicated by neutral tribunals.

Idaho does not meet any of these baseline standards.

Legislative Implications

The Legislature may need to: - expand Judicial Council jurisdiction to include patterns of legal error; - require public annual reporting of judicial-discipline outcomes; - establish an independent review panel for disqualification motions; - restrict sealing practices and mandate written findings; - require data collection on judicial timelines, rulings, and appeal-blocking behaviors.

Issue Summary Conclusion

Judicial oversight in Idaho is structurally incompatible with the Idaho Constitution's guarantees of open courts, impartial tribunals, and accessible remedies. Without legislative modernization of oversight mechanisms, Idaho families will continue to face unconstitutional barriers to justice.

Issue Summary 3 — DHW/CPS Documentation & Investigative Failures

Summary of Systemic Issue

Testimony and administrative evidence reveal a statewide pattern of unreliable, incomplete, altered, or missing documentation produced by the Department of Health and Welfare (DHW) and Child Protective Services (CPS). Investigations were frequently closed within hours, mandatory hearings were skipped, kinship placements were disregarded, and critical records—including medical evidence and abuse reports—either never appeared in agency files or were later discovered to have been removed. These failures occurred across multiple regions, demonstrating a uniform administrative breakdown rather than isolated dysfunction.

Constitutional Conflicts

DHW/CPS failures implicate several Idaho constitutional provisions: - *Art. I, § 13* — Due Process: Children were removed or restricted based on unsworn, incomplete, or inaccurate documentation, violating due-process protections for both parents and children. - *Art. I, § 18* — Open Courts & Remedy: When agency reports are missing, altered, or withheld, parents cannot challenge findings, prepare appeals, or obtain judicial remedy. - *Art. I, § 1* — Inalienable Parental Rights: Agency misconduct that disrupts family integrity infringes on parents' fundamental constitutional rights. - *Art. II & Idaho APA* — Administrative-Law Limits: CPS routinely exercised quasi-judicial authority—substantiating allegations, placing individuals on the Central Registry, and directing custody outcomes—without statutory or constitutional authority to do so.

Statutory Conflicts & Procedural Failures

- Idaho Code § 16-1615 (mandatory shelter-care hearings) was routinely violated.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Idaho Code § 16-1627 (kinship preference) was ignored in multiple cases.
- Child-welfare documentation requirements under Title 16 were inconsistently followed.
- Central Registry procedures lacked judicial oversight and required no sworn evidence.
- DHW internal standards varied widely across counties, creating unconstitutional geographic disparities.

Testimonial Patterns

- Testimony reported missing medical abuse documentation and multiple skipped hearings.
- Testimony documented the removal of a medically fragile infant without sworn evidence and without a shelter-care hearing.
- Testimony reported the denial of a legally required kinship placement.
- Testimony presented photos and written evidence of abuse that CPS ignored.
- Testimony reported multigenerational harm due to CPS failure to investigate credible safety concerns.

These cases reflect a systemic failure of basic administrative duties—recordkeeping, verification, investigation, and statutory compliance.

Empirical Benchmarks

Federal HHS research identifies documentation failures as a primary driver of wrongful child-welfare outcomes. States with strict attestation requirements experience lower error rates, fewer removals without cause, and improved child-safety outcomes. Idaho's absence of sworn-report requirements or uniform investigative protocols places it outside accepted national standards.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Legislative Implications

The Legislature should consider: - requiring sworn, verified documentation for all DHW/CPS filings used in court; - mandating uniform statewide investigative standards under the Idaho APA; - establishing judicial review requirements for Central Registry placements; - codifying timelines for hearings and mandatory findings for removals; - implementing audit and accountability mechanisms to track missing or altered records.

Issue Summary Conclusion

DHW/CPS documentation failures represent a structural administrative-law breakdown with constitutional consequences. Legislative reform is necessary to ensure that child-welfare decisions are grounded in reliable evidence, uniform procedures, and constitutional due process.

Issue Summary 4 — Evaluator and Parenting Coordinator Misconduct

Summary of Systemic Issue

Testimony and documentary evidence revealed that custody evaluators and parenting coordinators (PCs) in Idaho wield quasi-judicial authority without statutory authorization, oversight, or constitutional safeguards. These private actors frequently shape or determine custody outcomes, impose visitation restrictions, and influence judicial decisions—while operating outside Idaho’s constitutional, evidentiary, and administrative frameworks.

Evaluators and PCs routinely: - issue recommendations treated as binding judicial orders; - apply unscientific or discredited theories such as “parental alienation” to override abuse documentation; - conduct evaluations without interviewing children or reviewing evidence; - charge unaffordable retainers and ongoing fees that coerce parental compliance; - omit or

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

misrepresent evidence, particularly in domestic-violence cases; - operate without licensure, accountability, or complaint pathways.

The effect is a shadow judicial system functioning behind closed doors, unregulated and unrestrained.

Constitutional Conflicts

Evaluator and PC misconduct implicates several provisions of the Idaho Constitution:

- *Art. V* — Judicial Power Limits: Only courts can exercise judicial power. Delegation of decision-making to private actors violates separation of powers.
- *Art. I, § 13* — Due Process: Parents cannot be deprived of custody based on unverified, unsworn, or scientifically invalid evaluator reports.
- *Art. I, § 18* — Remedy & Open Courts: Evaluators operate without transparency or appeal mechanisms, denying parents access to remedy.
- *Art. I, § 1* — Inalienable Parental Rights: Biased or unscientific evaluations infringe upon natural, essential, and fundamental parental rights.

Statutory and Rule Conflicts

- Idaho lacks any statute defining evaluator or PC qualifications.
- Evaluator conclusions often contradict I.R.E. 702 and Daubert reliability requirements.
- Evaluators and PCs impose restrictions outside IRFLP and without judicial findings.
- ICAR 32 transparency requirements are undermined by evaluator confidentiality provisions.

Testimonial Patterns

- Testimony (licensed clinician) reported trauma-blind evaluations that ignored child disclosures.
- Testimony documented evaluator bias, undisclosed conflicts, and failure to assess safety risks.
- Testimony reported evaluator intimidation and an inability to secure representation due to systemic bias.
- Testimony reported evaluator findings that contradicted medical and law-enforcement evidence.
- Testimony reported removal of her children based on alienation claims despite evidence of abuse by the other parent.

Empirical Benchmarks

- National research (AFCC-independent studies, NIJ findings, UN Rapporteur report) confirms that unregulated evaluators produce unsafe and unconstitutional outcomes.
- Peer states (WA, HI, CO) require licensure, training, and oversight of evaluators and PCs.
- Alienation theories have been widely rejected by scientific bodies when used to discount abuse disclosures.

Legislative Implications

To realign Idaho's evaluator and PC practices with constitutional requirements, the Legislature should consider: - creating licensure and minimum qualifications for evaluators and PCs; - establishing an independent regulatory board with investigative and disciplinary authority; - prohibiting evaluators from issuing binding directives; - requiring trauma-informed and DV-

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

specific training; - mandating written, reviewable findings for all evaluator recommendations; - aligning evaluation standards with *Daubert and I.R.E. 702*.

Issue Summary Conclusion

Evaluator and PC misconduct represents a major structural defect in Idaho’s family-court system. These privately contracted actors wield judicial influence without constitutional authority, oversight, or evidentiary reliability. Legislative action is required to regulate their role, protect Idaho families, and restore constitutional integrity.

Issue Summary 5 — Domestic Violence, Coercive Control & Trauma Misclassification

Summary of Systemic Issue

Testimony across Idaho demonstrates that domestic violence (DV) and coercive control are frequently misunderstood, minimized, or misclassified by courts, resulting in unsafe custody orders, silencing of victims, and unconstitutional infringements on parental rights. Courts routinely reframed DV cases as “high conflict” rather than identifying the unilateral patterns of domination, manipulation, and danger that characterize coercive control. This failure undermines both child safety and Idaho’s constitutional protections.

The misuse of “parental alienation” to override documented abuse further compounds these failures, disproportionately harming protective parents—most frequently mothers—and exposing children to continued abuse.

Constitutional Conflicts

Misclassification or dismissal of DV and coercive control implicates several Idaho constitutional provisions:

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- *Art. I, § 1* — Inalienable Rights: Victims testified that coercive control deprived them and their children of safety and liberty—clear violations of Idaho’s guaranteed natural rights.
- *Art. I, § 13* — Due Process: Courts cannot lawfully restrict custody without properly weighing DV evidence. Excluding DV evidence or substituting alienation claims for factual analysis violates due process.
- *Art. I, § 18* — Remedy & Open Courts: Victims were routinely denied meaningful remedy when courts dismissed emergency motions, excluded critical evidence, or sealed proceedings.
- Idaho Supreme Court Doctrine on Fundamental Parental Rights: Idaho’s jurisprudence requires strict protection of parental rights—protections routinely denied when DV dynamics are ignored.

Statutory and Practice Conflicts

- *Idaho Code § 39-6303* defines DV only as physical violence or threat—not coercive control.
- Courts often require victims to provide evidence beyond statutory requirements.
- Mediation was ordered in DV cases despite IRFLP guidance discouraging mediation where abuse is present.
- Parental alienation claims were accepted without scientific reliability, overriding DV disclosures.

Testimonial Patterns

- Testimony provided videos and police records documenting threats, stalking, and harm to pets, yet the case was dismissed based on facially false evidence.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Testimony reported that CPS omitted DV documentation from her file, preventing the court from reviewing it.
- Testimony testified that coercive control was reframed as “relationship conflict,” affecting all subsequent rulings.
- Testimony reported protective behavior being spun as alienation, resulting in sanctions.
- Testimony presented photographic evidence of child injury that was disregarded.
- Testimony described fear, coercion, and lack of judicial consideration of her attempts to report abuse.

Trauma Science & National Benchmarks

National DV experts and federal recommendations (including Kayden’s Law) emphasize: -

Coercive control is often more predictive of lethal risk than physical violence. - Alienation theories are not scientifically valid for disproving DV. - Trauma symptoms—such as anxiety, inconsistent narrative, or fear—are frequently misinterpreted as lack of credibility. - Peer states like WA and HI formally recognize coercive control and prohibit the misuse of alienation in DV cases.

Idaho currently fails to meet these standards, leaving children at elevated risk.

Legislative Implications

To align Idaho law and family-court practice with constitutional mandates, child-safety imperatives, and established trauma science, the Legislature should consider comprehensive reforms that address both substantive standards and professional competence in domestic-violence adjudication.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Legislative action should include:

- Amending *Idaho Code* § 39-6303 to explicitly recognize coercive control as a form of domestic violence, consistent with national and international standards identifying coercive control as a primary predictor of harm to children and victims.
- Prohibiting reliance on unscientific parental-alienation theories, particularly in cases involving domestic violence or coercive-control allegations and requiring courts to base custody determinations on evidence that meets established reliability standards.
- Requiring mandatory domestic-violence and trauma-informed training for judges, custody evaluators, parenting coordinators, guardians ad litem, mediators, and other court-appointed professionals involved in custody determinations.
- Mandating that courts make explicit, written safety findings addressing domestic violence and coercive-control risks before ordering shared custody, reunification, or expanded parenting time where abuse is alleged.
- Prohibiting mandatory mediation in cases involving domestic violence or coercive control, recognizing the inherent power imbalances and constitutional risks present in such proceedings.
- Requiring courts and evaluators to properly consider trauma-consistent behaviors including fear responses, emotional dysregulation, or inconsistent recall as potential indicators of abuse rather than evidence of instability or alienation.
- Establishing statewide standards to ensure that behavioral science is applied in a manner consistent with empirical research, constitutional due-process protections, and child-safety principles.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

These reforms are necessary to prevent the misclassification of abuse as “high conflict,” to protect children from unsafe custody outcomes, and to ensure that Idaho’s family-court system does not punish protective behavior or elevate pseudoscientific frameworks over constitutional and evidentiary requirements.

Issue Summary Conclusion

Idaho’s current handling of domestic violence and coercive control is constitutionally deficient, scientifically unsupported, and empirically dangerous. Legislative clarification and statutory modernization are essential to protect Idaho children, uphold constitutional rights, and restore credibility to family-court proceedings.

Issue Summary 6 — Attorney & Prosecutorial Misconduct

Summary of Systemic Issue

Testimony and submitted documents revealed recurring patterns of attorney and prosecutorial misconduct in family-court and related proceedings within Idaho’s family-court ecosystem. This misconduct included knowingly false allegations, forged or altered evidence, intimidation of litigants, coordinated efforts to weaponize CPS processes, suppression or misrepresentation of sealed materials, and retaliatory filings intended to exhaust or silence opposing parties.

These issues and concerns are not/were not meaningfully addressed by existing enforcement mechanisms.

Most critically, courts often failed to sanction or even scrutinize such behavior, allowing dishonest advocacy to shape custody outcomes—especially in cases involving domestic

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

violence, coercive control, or significant financial disparity. Prosecutorial misconduct in related criminal or quasi-criminal proceedings further exacerbated constitutional harm.

Constitutional Conflicts

Attorney and prosecutorial misconduct implicate several Idaho constitutional provisions:

- *Art. I, § 13* — Due Process: False filings, altered evidence, and misrepresentation deprive parents of the fair and reliable process required before restricting a fundamental liberty interest such as custody.
- *Art. I, § 18* — Open Courts & Remedy: Litigation obstruction—through deceit, intimidation, or strategic delay—impairs the constitutional right to obtain a meaningful remedy.
- Equal Protection Principles in Idaho Law: When courts penalize one party's minor errors but ignore the opposing party's fraudulent conduct, similarly situated litigants are treated unequally, violating Idaho's constitutional commitment to fairness.

Statutory & Ethical Conflicts

- IRPC 3.3 — Candor to the Tribunal: Requires attorneys to avoid making false statements or offering evidence they know to be false. Testimony consistently documented violations.
- IRPC 3.1 — Meritorious Claims: Attorneys may not advance frivolous claims. Numerous testimonies documented cases built entirely on fabricated or unsubstantiated allegations.
- IRPC 8.4 — Misconduct: Acts involving dishonesty, fraud, deceit, or misrepresentation are prohibited.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Prosecutorial obligations (under *State v. Bell*) require fairness and disclosure, yet testimony showed repeated suppression of evidence and conflicts of interest.

Testimonial Patterns

- Testimony reported a coordinated pattern of false filings and intimidation, worsened by systemic attorney fear of judicial retaliation.
- Testimony testified that opposing counsel submitted altered evidence and knowingly misrepresented facts in court.
- Testimony documented prosecutorial misconduct involving misuse of sealed materials and cooperation with opposing counsel.
- Testimony submissions revealed conflicts of interest, failure to disclose exculpatory evidence, and unconstitutional handling of protected information.
- Multiple parents described attorneys encouraging clients to weaponize CPS reports or seek baseless protection orders.

Empirical Benchmarks

National standards—including ABA judicial ethics guidelines and federal prosecutorial norms—require: - sanctions for knowing falsehoods, - independent reporting pathways, - public accountability for attorney discipline, - and strict enforcement of truth-telling obligations in custody cases.

Idaho's lack of enforcement places it outside normative legal standards and allows unethical conduct to influence custody outcomes unchecked.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Legislative Implications

Legislative action should focus on the following reforms:- creating mandatory sanctions for proven false filings; - establishing an independent review mechanism for attorney misconduct in family cases; - prohibiting attorneys from weaponizing CPS or DV systems through knowingly false reports; - requiring heightened scrutiny when attorney misconduct affects child safety; - mandating disclosure protections and penalties for misuse of sealed materials; - supporting reforms to ensure equal treatment of litigants regardless of financial resources.

Issue Summary Conclusion

Attorney and prosecutorial misconduct undermine the integrity of Idaho’s judicial system and violate constitutional protections designed to safeguard parental rights. Legislative reforms are needed to ensure that truthfulness, fairness, and due process—not dishonesty or intimidation—determine the outcomes of family-court cases.

Issue Summary 7 — Economic Coercion & Access-to-Justice Failures

Summary of Systemic Issue

Testimony across Idaho established that financial capacity—not evidence, statutory standards, or child safety—often determines the outcome of family-court cases. Parents consistently reported litigation costs exceeding \$50,000 to \$250,000, evaluator retainers of \$6,000–\$12,000, supervised visitation fees higher than rent or mortgage payments, and transcript costs so prohibitive that appeals became impossible. These financial barriers operate as de facto parental disqualifiers, disproportionately harming protective parents, low-income families, rural Idahoans, and domestic-violence survivors.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Idaho provides no general statutory right to counsel in custody proceedings, leaving most parents to navigate high-stakes litigation without representation. There are no statutory protections against financially coercive litigation tactics. As a result, family-court proceedings frequently become pay-to-parent systems, violating Idaho's constitutional guarantees of due process, open courts, and justice without sale.

Constitutional Conflicts

Economic coercion implicates several sections of the Idaho Constitution:

- *Art. I, § 13* — Due Process: Parents cannot defend their fundamental rights if they cannot afford representation, evidence collection, evaluator rebuttals, or appeals. When financial exhaustion forces parents to concede custody or forego litigation, due process is constructively denied.
- *Art. I, § 18* — Open Courts & Remedy: The remedy clause mandates that Idaho's courts remain accessible. Transcript fees, evaluator costs, and supervised visitation charges that block appellate review violate this constitutional mandate.
- *Art. I, § 7* — Justice Without Denial or Sale: Justice becomes “sold” when only affluent litigants can continue participating in the process while others are forced out by financial attrition.
- Idaho Fundamental Rights Doctrine: Parental rights require strict protection; financial barriers cannot constitutionally determine whether a parent retains access to their child.

Testimonial Patterns

- Testimony reported near-bankruptcy due to evaluator fees, repeated filings, and prolonged litigation.
- Testimony reported choosing between continued litigation and basic necessities such as housing and medical care.
- Testimony documented that the opposing party used financial advantage to file excessive motions, forcing her into untenable litigation costs.
- Testimony reported that financial exhaustion—not evidence—dictated her custody outcome.
- Testimony paid child support for seven years without access to his child due to procedural and financial barriers.
- Testimony demonstrated how transcript fees and sealing practices prevented a constitutionally protected appeal.

These accounts confirm that the system penalizes poverty and rewards financial aggression.

Empirical Benchmarks

National research (NCAJ, OPE, ABA) identifies lack of counsel and excessive litigation costs as primary predictors of unjust custody outcomes. Peer states mitigate these harms through fee waivers, public counsel programs, and evaluator cost regulation. Idaho lags behind national standards on all fronts.

Legislative Implications

To restore constitutional compliance and prevent economic discrimination, lawmakers may consider: - creating a limited right to counsel in high-risk custody cases; - implementing fee-balancing statutes when there is significant income disparity; - capping evaluator fees or requiring income-based fee structures; - requiring transcript and audio-fee waivers for indigent litigants; - regulating supervised visitation fees and ensuring statewide uniformity; - prohibiting excessive or strategic litigation intended to financially exhaust an opposing party.

Issue Summary Conclusion

Economic coercion has become one of the most powerful—and unconstitutional—forces shaping custody outcomes in Idaho. Legislative intervention is necessary to ensure that parental rights are determined by evidence and child safety, not by a family’s financial ability to withstand prolonged and expensive litigation.

Issue Summary 8 — Sealing, Transparency Failures & Procedural Obstruction

Summary of Systemic Issue

Testimony revealed that Idaho’s family courts frequently employ sealing, transcript denial, and record withholding in ways that contradict the Idaho Constitution and Idaho Court Administrative Rule 32 (ICAR 32). Rather than protecting children—as the law intends—sealing is often used in ways that have the effect of concealing judicial error or preventing meaningful review: - shield evaluator misconduct, - prevent public scrutiny, - obstruct appellate review, and - suppress litigants’ ability to report constitutional violations.

This pattern of procedural obstruction is statewide, systemic, and constitutionally significant.

Constitutional Conflicts

Sealing and transparency failures violate several Idaho constitutional provisions:

- *Art. I, § 18* — Open Courts & Remedy: The Constitution requires courts to be open and to provide meaningful remedies. Denying transcripts, withholding recordings, or sealing entire case files obstructs access to justice.
- *Art. I, § 9* — Freedom of Speech & Press: Threatening parents with contempt for referencing their own filings, preventing public discussion, or selectively leaking sealed materials violates constitutional speech protections.
- *Art. I, § 13* — Due Process: Parents cannot defend parental rights or appeal adverse decisions when records are inaccessible. Denial of transcripts effectively eliminates due-process safeguards.
- *Art. I, § 1* — Inalienable Parental Rights: When sealing prevents disclosure of evidence necessary to protect a child, the court infringes upon fundamental parental rights.

Statutory and Rule Conflicts

- ICAR 32 mandates a presumption of open records, with sealing allowed only when justified by written findings. Testimony established that courts routinely ignore this requirement.
- Courts sometimes seal cases after misconduct allegations arise, creating the appearance of retaliatory or protective motivation.
- Transcript denials violate both ICAR 32 and the constitutional requirement of meaningful access to the judicial process.

Testimonial Patterns

- Testimony documented selective leaking of sealed materials by a judge while she was threatened for referencing her own filings.
- Testimony reported that denial of access to sealed evidence prevented her from filing a Judicial Council complaint.
- Testimony reported inability to obtain transcripts necessary for appeal, resulting in permanent loss of custody without appellate review.
- Testimony testified that Judicial Council secrecy and judicial sealing practices prevented transparency and accountability.
- Testimony identified sealing as a statewide obstruction to oversight and legislative evaluation.

These testimonies confirm that sealing is frequently used in ways incompatible with constitutional transparency requirements.

Empirical Benchmarks

National judicial-administration standards (NCSC, NACM, ABA) require: - narrow tailoring of sealed records, - written findings, - availability of redacted alternatives, - rapid provision of transcripts and recordings, - and public access to judicial rationales.

Idaho courts, by contrast, often employ blanket sealing and inaccessible record systems.

Legislative Implications

The Legislature may consider statutory reforms requiring: - written findings for all sealing orders; - time-limited sealing with mandatory periodic review; - guaranteed access to recordings

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

and transcripts, especially for appeals; - ICAR 32 codification to prevent judicial deviation; - independent oversight of sealing to ensure constitutional compliance.

Issue Summary Conclusion

Sealing and transparency failures represent one of Idaho’s most serious constitutional breakdowns. Without legislative intervention, Idaho courts will continue to operate, in effect, outside the public’s view—denying due process, suppressing remedy, and eroding public trust. Statutory clarity and oversight are essential to restoring Idaho’s constitutional commitment to open and accountable courts.

Issue Summary 9 — Systemic Transparency Failures & Collapse of Public Trust

Summary of Systemic Issue

Testimony from parents, youth, professionals, law-enforcement personnel, and advocates revealed a profound collapse of public trust in Idaho’s family-court system. This collapse is not rooted in simple disagreement with outcomes—it is driven by patterns of judicial secrecy, perceived retaliation, denial of records, opaque decision-making, and the inability to obtain remedy even when constitutional violations are evident.

Idahoans repeatedly testified that they feared speaking in court, filing motions, reporting misconduct, or even contacting legislators. Many expressed that the family-court system felt “rigged,” “unsafe,” “retaliatory,” or “untouchable.” This erosion of trust has constitutional consequences because Idaho’s legal system requires transparency, accountability, and public confidence to function.

Constitutional Conflicts

Transparency failures and fear-driven silence undermine several Idaho constitutional guarantees:

- *Art. I, § 18* — Open Courts & Remedy: When litigants believe that courts operate secretly or without remedy, the constitutional purpose of open courts is defeated.
- *Art. I, § 7* — Administration of Justice Without Denial or Delay: Public confidence is essential to the administration of justice. If citizens believe justice is denied or retaliatory, the system no longer satisfies §7.
- *Art. I, § 9* — Freedom of Speech: Threats of contempt or punitive action for discussing one's own case create unconstitutional chilling of speech and restrict public oversight.
- *Art. I, § 1* — Natural Rights: Fear and retaliation undermine the ability of parents to advocate for their children's safety and welfare, infringing on their constitutional rights to liberty and happiness.

Testimonial Patterns

- Parents across Idaho described fearing retaliation for filing motions, appeals, or complaints.
- Testimony reported that attorneys refused representation due to fear of angering local judges.
- Testimony testified that sealed records and transcript denials made appeals impossible, fostering a belief that the judiciary was insulated from accountability.
- Testimony expressed disbelief that the court ignored safety disclosures and emotional distress, weakening her trust in the justice system.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Law-enforcement and mental-health professionals testified that the system downplayed abuse, ignored evidence, or treated victims unfairly, leading them to warn legislators of systemic malfunction.

Empirical Benchmarks

Judicial-legitimacy research establishes that: - compliance with court orders depends heavily on perceived fairness; - systems with opaque processes experience lower compliance and higher recurrence of litigation; - transparency failures degrade citizen trust in government institutions.

Idaho's patterns - sealing, retaliation, delay, and opaque processes—mirror those identified in legitimacy-collapse environments.

Legislative Implications

To restore constitutional confidence in Idaho's family courts, the Legislature may consider: - requiring public reporting of judicial performance metrics; - mandating transparency in timelines, evidentiary standards, and sealing practices; - creating safe channels for reporting judicial misconduct without fear of retaliation; - ensuring youth testimony is meaningfully considered in appropriate cases; - establishing an independent oversight body with authority to audit, investigate, and report on systemic patterns; - requiring courts to provide clear, written rationales for custody decisions.

Issue Summary Conclusion

Public trust is a constitutional asset. When a judicial system loses legitimacy, the rights it is designed to protect become inaccessible. The systemic transparency failures documented across Idaho demand legislative reform to ensure that justice is not only done but seen to be done—and

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

that Idaho families can again rely on their courts for safety, fairness, and constitutional protection.

Issue Summary 10 — Absence of Judicial Performance Data & Public Accountability

Summary of Systemic Issue

Idaho’s family-court system operates without transparent, performance-based data demonstrating whether judges and court employees are fulfilling their constitutional and statutory obligations. Unlike other publicly funded entities, the judiciary does not publish standardized metrics assessing timeliness, evidentiary compliance, constitutional adherence, or service outcomes in family-court proceedings.

As a result, neither the Legislature nor the public can evaluate whether judicial actors are appropriate stewards of public resources or whether increased funding has resulted in improved access to justice, reduced delays, or enhanced constitutional compliance.

Constitutional and Governance Conflicts

This absence of data conflicts with:

- **Article I, § 18** — which requires courts to remain open and remedies to be accessible;
 - **Article I, § 7** — which prohibits justice by delay or obstruction;
 - **Article II** — which assigns the Legislature responsibility for oversight of public expenditures;
- and
- fundamental principles of public-sector accountability applicable to all publicly funded officials.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

A judiciary that does not measure or report its own performance cannot be meaningfully overseen, audited, or reformed.

Legislative Implications

To restore transparency and accountability, the Legislature may consider:

- requiring annual publication of judicial performance metrics,
- conditioning future appropriations on demonstrated constitutional compliance,
- mandating independent audits of judicial operations and outcomes, and
- treating court employees and judicial officers as public servants subject to measurable performance standards.

Transparency is not punitive; it is a prerequisite for public trust, responsible budgeting, and constitutional governance.

Issue Summary 11 — Court-Enabled Medical and Educational Neglect

Summary of Systemic Issue

Testimony established that court-ordered custody arrangements and procedural delays frequently result in children missing medical care, mental-health treatment, special-education services, and stable schooling. When judicial action or inaction prevents timely access to healthcare or education, the State becomes an active contributor to harm rather than a neutral arbiter.

Constitutional Conflicts

These outcomes implicate *Article* I, §§ 1, 13, and 18 by depriving children of safety, stability, and meaningful remedy through state action.

Legislative Implications

Legislative safeguards are required to ensure that custody orders do not obstruct children’s access to medical care, therapy, or education.

Issue Summary 12 — Procedural Weaponization and Process-Based Punishment

Summary of Systemic Issue

Testimony demonstrated that delay, repeated evaluations, escalating costs, and procedural hurdles are routinely used as de facto sanctions against parents—particularly protective parents—without evidentiary findings or adjudication. This transforms procedure into punishment and substitutes exhaustion for due process.

Constitutional Conflicts

Such practices violate *Article I*, §§ 7, 13, and 18 by administering justice through delay, denial, and financial coercion.

Legislative Implications

Statutory limits on procedural delay and repetitive requirements are necessary to prevent punishment without adjudication.

SECTION VII — Legislative Recommendations

Introduction

The Legislature holds both the constitutional authority and the institutional responsibility to correct systemic failures that impair the rights of Idaho families, undermine public confidence, and compromise child safety. Based on the constitutional analysis, testimonial record, administrative review, and empirical research presented throughout this White Paper, the following legislative recommendations outline the immediate, structural, and long-term reforms required to realign Idaho’s family-court system with statutory intent and constitutional mandates.

These recommendations follow a legislative style appropriate for drafting, committee discussion, and policy planning. They intentionally avoid prescribing specific bill language and instead articulate clear reform objectives for lawmakers to consider. The recommendations below are informed by constitutional analysis, statewide testimony, empirical research, and legislative synthesis meetings in which Task Force members evaluated feasibility, prioritization, and systemic impact.

1. Procedural Due-Process Reforms

Purpose: Restore timely adjudication, evidentiary integrity, and constitutional safeguards in custody proceedings.

Legislative action should:

- establish mandatory time limits for temporary custody orders, including evidentiary hearings within defined periods (e.g., 30–60 days);
- require written findings identifying the statutory and constitutional basis for any extension of a temporary order;
- require courts to track and report the duration of all temporary orders;
- mandate priority scheduling when fundamental parental rights are implicated;
- require courts to document reasons for delayed hearings or continued interim restrictions.

2. Judicial Accountability and Oversight Modernization

Purpose: Ensure independent, transparent oversight capable of addressing systemic constitutional violations.

Legislative action should:

- maintain the Idaho Judicial Council’s role in ethical discipline while removing systemic family-court oversight from a misconduct-only framework;
- assign constitutional-compliance review to judicial appointing and retention bodies with authority to evaluate performance patterns;
- prohibit judges from ruling on their own disqualification motions and require independent review with written findings;

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- mandate public reporting of judicial performance metrics, including timelines, sealing practices, and access to records;
- require independent audits of family-court practices and oversight mechanisms.

Future legislative appropriations should be conditioned on the availability of these metrics to ensure responsible stewardship of public funds and adherence to constitutional mandates.

3. Transparency, Sealing, and Records Access Reform

Purpose: Restore open courts, meaningful appellate review, and public accountability.

Legislative action should:

- limit sealing orders to narrowly tailored circumstances supported by written findings;
- require periodic review and expiration of sealing orders;
- guarantee litigants timely access to transcripts, audio recordings, and court records, particularly for appeal;
- prohibit sealing practices that function as gag orders or retaliation;
- codify ICAR 32 standards to prevent deviation from constitutional openness requirements.

4. DHW/CPS Administrative-Law and Documentation Reforms

Purpose: Ensure child-welfare actions are lawful, evidence-based, and constitutionally compliant.

Legislative action should:

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- require all DHW/CPS affidavits, reports, and recommendations submitted to courts to be sworn under penalty of perjury;
- mandate uniform statewide investigative standards under the Idaho Administrative Procedure Act;
- enforce statutory requirements for shelter-care and permanency hearings;
- require judicial review and due-process protections for Central Registry placement;
- establish record-preservation requirements and audit mechanisms for agency documentation.

5. Evaluator, Parenting Coordinator, and Reunification Program Regulation

Purpose: Eliminate unregulated quasi-judicial authority exercised by private actors.

Legislative action should:

- establish licensure and minimum qualifications for custody evaluators, parenting coordinators, and reunification providers;
- require training in child development, domestic violence, coercive control, and trauma science;
- prohibit evaluators and PCs from issuing binding directives or quasi-judicial decisions;
- require evaluator conclusions to comply with Daubert and Idaho Rules of Evidence standards;
- mandate an independent oversight body with authority to investigate complaints and discipline misconduct;

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- require transparent, income-sensitive fee structures to prevent economic coercion.

6. Domestic Violence and Coercive-Control Protections

Purpose: Align custody adjudication with child safety, trauma science, and constitutional protections.

Legislative action should:

- amend Idaho Code § 39-6303 to recognize coercive control as a form of domestic violence;
- prohibit reliance on unscientific parental-alienation theories to override abuse evidence;
- require courts to make explicit safety findings before ordering shared custody or reunification where domestic violence is alleged;
- mandate specialized domestic-violence and trauma-informed training for judges, evaluators, guardians ad litem, parenting coordinators, and mediators;
- prohibit mandatory mediation in cases involving domestic violence or coercive control.

7. Right-to-Counsel and Access-to-Justice Reforms

Purpose: Prevent economic status from determining parental-rights outcomes.

Legislative action should:

- establish a limited right to counsel in high-risk custody cases involving domestic violence, termination-like consequences, or significant constitutional concerns;
- require courts to consider financial disparity when allocating attorney fees or evaluator costs;

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- guarantee transcript and recording fee waivers for indigent litigants;
- regulate supervised-visitation fees and require statewide uniformity;
- prohibit litigation tactics designed to financially exhaust or silence an opposing party.

8. Performance Metrics, Audits, and Fiscal Accountability

Purpose: Enable legislative oversight and evidence-based budgeting.

Legislative action should:

- require annual publication of standardized judicial performance metrics;
- track duration of temporary orders, hearing timelines, sealing frequency, evaluator usage, and access-to-records outcomes;
- include child-impact indicators such as medical delays, educational disruption, and placement instability;
- condition future judicial appropriations on availability of transparent performance data;
- mandate independent audits of family-court operations and oversight bodies.

9. Ongoing Review and Periodic Update of the White Paper

Purpose: Ensure the legislative record remains current and responsive to ongoing harm.

Legislative action should:

- direct that this White Paper be updated no less frequently than every six months, and preferably quarterly;
- incorporate newly submitted testimony, professional communications, and empirical data;
- track whether enacted reforms are producing measurable improvements;
- maintain a living legislative record reflecting ongoing conditions in Idaho's family courts.

The Legislature should direct that this White Paper be updated on a regular and recurring basis, no less frequently than every six months, and preferably quarterly, to reflect the continued

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

volume of testimony, documentary submissions, professional communications, and data being received by the Task Force.

Testimony, written submissions, and communications from judges, attorneys, mental-health professionals, educators, law-enforcement officers, and affected families continue to be submitted at a sustained and increasing rate. The emergence of new victims has not slowed during the Task Force process, indicating that the systemic failures identified in this report remain active and ongoing.

A static report cannot adequately capture a dynamic and evolving constitutional crisis. Periodic updates will allow the Legislature to:

- track emerging patterns and trends,
- identify newly affected populations and regions,
- incorporate additional empirical data and professional insight, and
- evaluate whether enacted reforms are producing measurable improvements.

Maintaining an updated legislative record ensures that Idaho's response remains evidence-based, current, and responsive to the lived realities of Idaho families and children.

10. Establishment of a Standing Legislative Committee on Family-Court Oversight

Purpose: Provide sustained oversight and ensure reforms result in measurable outcomes.

Legislative action should:

- establish the Child Custody and Domestic Relations Task Force as a standing legislative committee;

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- authorize year-round meetings to receive testimony and data;
- monitor implementation and compliance with enacted reforms;
- recommend corrective action where reforms are ineffective or ignored;
- ensure continued protection of Idaho's children, youth, and families.

The Legislature should establish the Child Custody and Domestic Relations Task Force as a standing legislative committee with authority to meet throughout the year, receive ongoing testimony and data, monitor implementation of reforms, and measure outcomes against defined constitutional and performance benchmarks.

The scope and severity of the failures documented in this White Paper demonstrate that family-court reform cannot be addressed through a temporary or one-time study. The volume of incoming testimony, the persistence of new cases, and the measurable harm to children and families require continuous legislative oversight and engagement.

A standing committee would enable the Legislature to:

- monitor judicial, agency, and evaluator compliance with enacted reforms,
- oversee the collection and publication of performance metrics,
- receive real-time feedback from professionals and affected families,
- recommend corrective action where reforms are ineffective or ignored, and
- ensure that resolutions lead to actual, measurable improvement rather than symbolic change.

Idaho's families, youth, and children are uniquely vulnerable to prolonged systemic failure in family-court proceedings. Sustained legislative oversight is essential to ensure that constitutional protections are not merely articulated but realized in practice.

Legislative Recommendations Conclusion

Collectively, these reforms would bring Idaho's family-court system into alignment with: - Idaho's Constitution (*Art. I §§ 1, 7, 9, 13, 18; Art. V*), - statutory intent under Titles 16 and 32, - national best-practice standards, and - the safety and due-process needs of Idaho families.

These recommendations do not prescribe specific bill text but provide a comprehensive framework for legislative drafting, committee consideration, and interbranch modernization of Idaho's family-court system.

APPENDICES A–H

Appendix A — Legal and Scholarly References ²⁰

This appendix provides the full legal and scholarly citations relied upon throughout this White Paper. Legal authorities are formatted consistent with *The Bluebook: A Uniform System of Citation* (21st ed.). Scholarly and empirical sources are formatted in APA (7th ed.) style.

I. Federal Constitutional and Supreme Court Authorities (Bluebook)

Mathews v. Eldridge, 424 U.S. 319 (1976).

Santosky v. Kramer, 455 U.S. 745 (1982).

Troxel v. Granville, 530 U.S. 57 (2000).

Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993).

Lassiter v. Dep’t of Soc. Servs., 452 U.S. 18 (1981).

FCC v. Fox Television Stations, Inc., 556 U.S. 502 (2009).

42 U.S.C. § 1983.

II. Idaho Constitutional Authorities (Bluebook)

Idaho Const. art. I, § 1.

Idaho Const. art. I, § 7.

²⁰ This appendix supplies full reference citations for authorities relied upon in the body of the White Paper.

Appendix H provides a functional index of these same authorities for rapid reference.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Idaho Const. art. I, § 9.

Idaho Const. art. I, § 13.

Idaho Const. art. I, § 18.

Idaho Const. art. II.

Idaho Const. art. V.

III. Idaho Statutes (Bluebook)

Title 16 — Children

Idaho Code § 16-1615.

Idaho Code § 16-1627.

Idaho Code § 16-2009.

Title 32 — Domestic Relations

Idaho Code § 32-704.

Idaho Code § 32-717.

Title 39 — Health and Safety

Idaho Code § 39-6303.

Title 1 — Courts and Court Officers

Idaho Code § 1-2101 et seq. (Idaho Judicial Council).

IV. Idaho Court Rules (Bluebook)

Idaho R. Fam. L. P. 109.

Idaho R. Fam. L. P. 504.

Idaho R. Fam. L. P. 704–705.

Idaho Ct. Admin. R. 32.

V. Idaho Administrative Law and Agency Authorities (Bluebook)

Idaho Admin. Proc. Act, Idaho Code § 67-5201 et seq.

Idaho Dep’t of Health & Welfare, Child Protective Services Procedures.

Idaho Dep’t of Health & Welfare, Central Registry Procedures.

Idaho Div. of Occupational & Prof’l Licenses, Licensure and Disciplinary Authority.

VI. National Judicial, Child-Welfare, and Access-to-Justice Sources (APA)

National Association for Court Management. (2023). *Transparency and accountability in family courts*. <https://nacmnet.org>

National Center for State Courts. (2022). *Best practices in judicial administration*. <https://www.ncsc.org>

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

National Center for Access to Justice. (2021). *Access to justice metrics and right-to-counsel research*. <https://justiceindex.org>

Office of Performance Evaluations. (2020–2024). *Public-sector accountability standards*. Idaho Legislature.

U.S. Department of Health and Human Services. (2021–2024). *Child welfare outcomes and documentation integrity*. <https://www.hhs.gov>

National Institute of Justice. (2021–2024). *Domestic violence and coercive control research*. <https://nij.ojp.gov>

VII. Scholarly and Professional Sources (APA)

Saunders, D. G. (2021). *Custody evaluations when domestic violence is alleged*. Applied Research Press.

Jaffe, P. G., & Johnston, J. R. (2022). *Ethical and clinical challenges in high-conflict custody cases*. *Family Court Review*, 60(3), 417–432.

Tyler, T. R. (2020). *Why people obey the law* (2nd ed.). Princeton University Press.

American Psychological Association. (2020). *Guidelines for child custody evaluations in family law proceedings*. <https://www.apa.org>

Association of Family and Conciliation Courts (AFCC) — Independent critiques and evaluator-practice analyses (2021–2024).

VIII. International and Comparative Authorities (APA / Legislative Sources)

United Nations Special Rapporteur on Violence Against Women and Girls. (2024). *Custody, coercive control, and child safety*. United Nations Human Rights Council.

Kayden’s Law, 34 U.S.C. § 12291 note.

Washington H.B. 1901 (2021).

Hawaii S.B. 1419 (2023).

Kentucky Rev. Stat. Ann. § 403.270 (2018 amendments).

Arkansas Code Ann. § 9-13-101 (2021 amendments).

Texas Fam. Code §§ 153.001 et seq. (2023 amendments).

IX. Ethical and Oversight Frameworks (Bluebook)

Idaho Code of Judicial Conduct.

Idaho Rules of Professional Conduct:

- Rule 3.1
- Rule 3.3
- Rule 8.4

Appendix B — Comparative Law Analysis

Peer-State Reforms Addressing Family-Court Systemic Failure

Purpose of This Appendix

This appendix provides a comparative analysis of statutory reforms adopted by peer states to address systemic failures analogous to those documented in Idaho’s family-court system. These jurisdictions confronted similar challenges—prolonged custody disputes, lack of judicial transparency, misuse of evaluators, domestic-violence misclassification, economic coercion, and erosion of public trust—and enacted targeted legislative solutions.

The examples below are not offered as one-size-fits-all models. Rather, they demonstrate that Idaho’s identified failures are neither unique nor insoluble, and that constitutionally grounded legislative reform is both feasible and effective.

I. Kentucky (2018) — Rebuttable Equal-Parenting Presumption

Core Reform

Kentucky enacted a rebuttable presumption of joint custody and equal parenting time, absent evidence of domestic violence or child endangerment.

Problem Addressed

- Prolonged litigation over custody
- Excessive judicial discretion without baseline standards
- Economic coercion through drawn-out proceedings

Outcomes

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Significant reduction in contested custody litigation
- Increased predictability and uniformity across judicial districts
- Reduced incentive for false allegations used to gain leverage

Relevance to Idaho

Idaho testimony repeatedly documented temporary orders becoming permanent outcomes without adjudication. Kentucky’s approach shows how statutory presumptions can:

- limit judicial drift,
- reduce delay, and
- protect children from prolonged instability.

II. Arkansas (2021) — Joint-Custody Default with Safeguards

Core Reform

Arkansas established joint custody as the default arrangement, while preserving judicial discretion to deviate based on safety findings.

Problem Addressed

- Inconsistent custody outcomes across counties
- Overreliance on discretionary evaluator opinions
- High appellate volume due to unpredictability

Outcomes

- Fewer appeals

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Greater consistency in custody determinations
- Improved child-stability metrics

Relevance to Idaho

Arkansas demonstrates that legislative clarity, rather than unchecked discretion, improves outcomes without sacrificing child safety—directly countering arguments raised against Idaho reform.

III. Washington (2021–2022) — Coercive Control Codification (HB 1901)

Core Reform

Washington codified coercive control as a legally cognizable form of domestic violence, requiring courts to assess patterns of domination, intimidation, and isolation—not just physical injury.

Problem Addressed

- Courts misclassifying abuse as “high conflict”
- Victims penalized for protective behavior
- Children placed with coercively controlling parents

Outcomes

- Earlier identification of dangerous dynamics
- Reduced misuse of “parental alienation” claims
- Improved child-safety outcomes

Relevance to Idaho

Idaho testimony overwhelmingly showed DV minimization and alienation misuse. Washington's statute demonstrates how clear legislative definitions can realign custody decisions with constitutional safety obligations.

IV. Hawaii (2023) — Trauma-Informed Custody Standards

Core Reform

Hawaii adopted trauma-informed custody statutes requiring courts to consider the impact of trauma, domestic violence, and coercive control on children and parents.

Problem Addressed

- Courts misinterpreting trauma responses as instability
- Evaluators lacking DV and trauma training
- Unsafe reunification orders

Outcomes

- Greater judicial literacy regarding trauma
- Improved handling of DV-related custody cases
- Reduction in re-litigation and emergency motions

Relevance to Idaho

Hawaii provides a model for addressing Idaho's documented behavioral-science misapplications, without undermining judicial authority.

V. Texas (2023) — Transparency & Parental-Rights Protections

Core Reform

Texas enacted reforms emphasizing:

- clearer parental-rights standards,
- limits on secrecy in family-court proceedings, and
- enhanced access to records and appeals.

Problem Addressed

- Overbroad sealing
- Denial of transcripts
- Erosion of public confidence

Outcomes

- Improved access to appellate review
- Greater public trust in court processes
- Reduced complaints related to secrecy

Relevance to Idaho

Texas demonstrates that transparency reforms do not endanger children—they protect constitutional legitimacy, echoing Idaho’s own *Article I* guarantees.

VI. Cross-Jurisdictional Themes

Across these jurisdictions, several common legislative principles emerge:

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

1. Statutory clarity reduces judicial inconsistency
2. Defined standards outperform discretionary frameworks
3. Coercive control recognition improves child safety
4. Evaluator oversight is essential to due process
5. Transparency restores public trust
6. Economic equity measures reduce coercive outcomes

These themes align precisely with the systemic failures identified in Idaho testimony.

VII. Comparative Implications for Idaho

The comparative record demonstrates that Idaho is not confronting uncharted territory. Other states faced—and resolved—the same constitutional tensions now documented in this White Paper.

Key takeaways for Idaho legislators include:

- Reform is constitutionally sound, not radical
- Legislative action reduces, rather than increases, litigation
- Child safety improves when statutes guide—not replace—judicial judgment
- Transparency strengthens, rather than weakens, the judiciary

Appendix B Conclusion

Peer-state experience confirms that Idaho’s family-court challenges are structural, remediable, and legislative in nature. The reforms adopted elsewhere provide concrete evidence that constitutional alignment, child safety, and judicial legitimacy can be restored through targeted statutory modernization.

Appendix C — Idaho Legal Authorities Cited²¹

Idaho-Specific Constitutional, Statutory, Rule, and Administrative Authorities

Purpose of This Appendix

This appendix provides a concise, Idaho-specific reference list of constitutional provisions, statutes, court rules, and administrative frameworks relied upon throughout this White Paper. Unlike Appendix A (full citations) and Appendix H (comprehensive index), Appendix C is designed as a legislative quick-reference tool to identify which Idaho authorities are implicated and why they matter.

I. Idaho Constitution

Article I — Declaration of Rights

²¹ This appendix is intended to assist legislators, committee staff, and oversight bodies in identifying where Idaho law must be clarified, enforced, or modernized to restore constitutional compliance and protect Idaho children and families.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- **§ 1 — Inalienable Rights**

Parental liberty, child safety, happiness, and family integrity

- **§ 7 — Administration of Justice Without Sale, Denial, or Delay**

Prolonged temporary orders, judicial delay, economic coercion

- **§ 9 — Freedom of Speech and Press**

Retaliatory sealing, gag-like restrictions on litigants

- **§ 13 — Due Process of Law**

Custody deprivation without hearings, unsworn evidence, biased tribunals

- **§ 18 — Open Courts; Remedy for Every Injury**

Sealing practices, transcript denial, blocked appeals

Article II — Legislative Authority

- *Legislative oversight of public expenditures and court accountability*

Article V — Judicial Power

- *Limits on judicial authority, improper delegation to private actors, recusal standards*

II. Idaho Statutes (Idaho Code)

Title 16 — Children

- **§ 16-1615 — Shelter Care Hearings**

Mandatory hearings following removal

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- **§ 16-1627 — Kinship Placement Preference**

Statutory preference routinely ignored

- **§ 16-2009 — Termination of Parental Rights**

Referenced for contrast with custody practices lacking equivalent safeguards

Title 32 — Domestic Relations

- **§ 32-704 — Custody Determinations**

Best-interest standard; evidentiary integrity

- **§ 32-717 — Custody Factors**

Primary statutory framework evaluated throughout the report

Title 39 — Health and Safety

- **§ 39-6303 — Domestic Violence Definitions**

Narrow definition excludes coercive control

Title 1 — Courts and Court Officers

- **Chapter 21 — Idaho Judicial Council**

Limited jurisdiction; ethical misconduct only; no review of legal error

III. Idaho Court Rules

Idaho Rules of Family Law Procedure (IRFLP)

- **Rule 109 — Judicial Disqualification**

Judges ruling on their own bias

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- **Rule 504 — Temporary Orders**

Short-term intent vs. long-term application

- **Rules 704–705 — Evidence and Affidavits**

Reliance on sworn testimony vs. affidavits

Idaho Court Administrative Rules (ICAR)

- **Rule 32 — Public Access to Court Records**

Presumption of openness; sealing requirements

IV. Idaho Administrative Law

- **Idaho Administrative Procedure Act (APA)**

Uniformity, due process, and limits on agency authority

V. Idaho Agencies and Oversight Bodies

- **Department of Health and Welfare (DHW)**

Child Protective Services investigations and documentation

- **Child Protective Services (CPS)**

Investigative procedures; Central Registry operations

- **Division of Occupational and Professional Licenses (DOPL)**

Evaluator and professional licensing authority

- **Judicial Council & Magistrate Commissions**

Ethical oversight; appointment and evaluation roles

VI. Idaho Ethical Frameworks

- **Idaho Code of Judicial Conduct**

Judicial impartiality, integrity, and appearance of fairness

- **Idaho Rules of Professional Conduct (IRPC)**

- Rule 3.1 — Meritorious Claims
- Rule 3.3 — Candor to the Tribunal
- Rule 8.4 — Misconduct

Appendix C Conclusion

Appendix C consolidates the Idaho-specific legal framework implicated by the testimony and analysis in this White Paper. Collectively, these authorities define the constitutional boundaries, statutory intent, procedural safeguards, and oversight responsibilities that Idaho’s family-court system is currently failing to meet.

Appendix D

Methodological Framework

Evidence Collection, Analysis, and Validation Protocols

Purpose of This Appendix

This appendix describes the methodology used to collect, analyze, and synthesize evidence reviewed by the Idaho Child Custody and Domestic Relations Task Force. It is intended to provide transparency regarding how findings were developed, to demonstrate methodological rigor appropriate for legislative fact-finding, and to confirm that conclusions in this White Paper are grounded in structured analysis rather than anecdote or advocacy.

I. Evidence Sources

The Task Force relied on multiple complementary categories of evidence, all of which were evaluated using documented and cross-validated review protocols appropriate for legislative oversight and constitutional analysis.

1. Sworn and Recorded Public Testimony

- Oral testimony presented during five statewide public hearings
- Written submissions from more than one hundred Idaho residents and professionals
- Testimony from judges, attorneys, agency administrators, law-enforcement officers, clinicians, scholars, parents, and youth

2. Survey Data and Aggregated Public Submissions

- Statewide survey responses submitted to the Task Force
- Aggregated experiential data reflecting recurring procedural, constitutional, and child-impact concerns

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Survey results used to assess frequency, geographic distribution, and consistency of reported practices

3. Primary Legal Authorities

- Idaho Constitution
- Idaho Code (Titles 1, 16, 32, and 39)
- Idaho Rules of Family Law Procedure (IRFLP)
- Idaho Court Administrative Rules (ICAR)
- Relevant federal constitutional doctrine

4. Administrative, Agency, and Court Records

- DHW/CPS documentation practices and records
- Central Registry procedures
- DOPL licensure and oversight materials
- Judicial Council statutory scope and complaint-handling frameworks
- Sealed or restricted court materials lawfully accessed by the Task Force and reviewed in accordance with applicable confidentiality requirements

5. Empirical and Scholarly Research

- Judicial-administration benchmarks
- Child-welfare and trauma-science research

- Domestic violence and coercive-control literature
- Access-to-justice and economic-equity studies

II. Testimony Coding and Thematic Analysis

All oral and written testimony was subjected to qualitative coding using a uniform analytical framework. Each submission was evaluated across multiple dimensions, including:

- Constitutional relevance
(*Article I §§ 1, 7, 9, 13, and 18; Article V*)
- Procedural domain
(temporary orders, hearings, sealing, recusal, evidence, access to counsel)
- Institutional actor
(judiciary, Judicial Council, DHW/CPS, evaluators, attorneys)
- Child-impact indicators
(safety, medical access, educational stability, attachment disruption)
- Geographic consistency
(county- and district-level comparisons)

Patterns were identified only where similar allegations, outcomes, or practices appeared across multiple independent testimonies, jurisdictions, or professional roles. Isolated or singular accounts were not treated as systemic findings.

III. Statutory and Constitutional Comparison

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Each identified pattern was evaluated through a three-step comparison:

1. Statutory intent — what Idaho law requires or anticipates
2. Observed practice — what testimony, surveys, and records demonstrate
3. Constitutional alignment — whether observed practice complies with procedural due process, fundamental-rights doctrine, and open-courts requirements

This comparison methodology produced the “law versus practice” analytical structure used throughout Section II and the Issue-Based Findings in Section VI.

IV. Cross-Validation and Consistency Review

To avoid over-reliance on any single evidentiary source, findings were cross-validated by:

- Comparing parent testimony with professional, agency, and judicial testimony
- Cross-referencing hearing transcripts with written submissions and survey data
- Assessing consistency across geographic regions and court districts
- Confirming alignment with national benchmarks and peer-state reforms

Only findings that remained consistent across multiple independent sources were elevated to systemic conclusions.

V. Comparative Jurisdictional Analysis

Comparative law analysis was used to:

- Confirm that Idaho’s documented failures are not unique

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Identify statutory tools used by peer jurisdictions to address similar problems
- Demonstrate feasibility of constitutionally grounded reform

No recommendation in this White Paper relies solely on another state's approach. Comparative examples are used as corroborative evidence and contextual support for Idaho-specific legislative action.

VI. Evidentiary Scope, Confidentiality, and Legislative Use

The Task Force's review included survey data, aggregated public submissions, and sealed or restricted court materials that were lawfully obtained and reviewed in accordance with applicable confidentiality requirements. These materials were used to identify systemic patterns, corroborate testimony, and assess consistency between reported experiences and documented court practices.

Consistent with legislative norms, sealed and confidential materials were not reproduced, quoted, or publicly disclosed in this White Paper. Instead, they informed pattern recognition, validation of testimony, and institutional analysis relevant to statutory and constitutional review.

The Task Force's use of these materials was limited to legislative fact-finding and policy development. No confidential records are included in this report, and no determinations of individual liability or adjudicative findings are made herein.

VII. Legislative Neutrality and Institutional Integrity

This White Paper was prepared to support legislative fact-finding, oversight, and policy development, drawing from testimony, survey data, documentary records, and legal analysis. The methodology was designed to respect separation of powers, preserve judicial independence while

identifying accountability gaps, protect the privacy of families and children, and ensure that conclusions are framed at the systemic, not individual, level.

Appendix D Conclusion

The methodological framework employed by the Task Force reflects a disciplined, multi-source approach to evaluating Idaho’s family-court system. By integrating testimony, survey data, statutory analysis, constitutional doctrine, administrative records, and empirical research—while applying consistency checks and cross-validation, the Task Force ensured that its findings are credible, replicable, and appropriate for legislative action.

This methodology underpins the constitutional analysis, issue summaries, and legislative recommendations presented throughout this White Paper.

Appendix E — Legislative Task Force Hearings (2025)

Evidentiary Record of Hearings Considered

Purpose of This Appendix

This appendix identifies all public hearings relied upon by the Idaho Child Custody and Domestic Relations Task Force in developing the findings, analysis, and recommendations contained in this White Paper. These proceedings constitute the formal evidentiary backbone of the report and reflect the full scope of testimony and issue synthesis considered.

I. Statewide Public Hearings

The Task Force conducted five public hearings across Idaho to receive sworn oral testimony and written submissions from parents, youth, judges, attorneys, agency officials, mental-health professionals, law-enforcement officers, scholars, and members of the public.

1. July 7, 2025 — Boise, Idaho

Primary Focus Areas

- Temporary custody orders and due-process delays
- Access to hearings and evidentiary integrity
- Sealing practices and public access to records
- Judicial discretion and lack of uniform standards

Key Themes Identified

- Temporary orders functioning as de facto final adjudications

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Lack of timely hearings and written findings
- Early testimony identifying constitutional conflicts under *Article I*

2. July 31, 2025 — Coeur d’Alene, Idaho

Primary Focus Areas

- Judicial Council procedures and limitations
- Judicial retaliation and disqualification concerns
- CPS/DHW documentation inconsistencies
- Regional disparities in family court practice

Key Themes Identified

- Structural limits of judicial oversight
- Inconsistent agency practices across counties
- Fear of retaliation inhibiting reporting of misconduct

3. August 28, 2025 — Idaho Falls, Idaho

Primary Focus Areas

- Evaluator and parenting-coordinator practices
- Economic coercion and litigation costs
- Supervised visitation fees and reunification programs

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Access-to-justice barriers for self-represented litigants

Key Themes Identified

- Evaluators operating without licensure or oversight
- Financial exhaustion dictating custody outcomes
- Unequal access to evidence and appellate review

4. September 30, 2025 — Boise, Idaho

Primary Focus Areas

- Evaluator licensing and DOPL authority
- Domestic violence and coercive-control evidence
- Misuse of parental-alienation constructs
- Behavioral-science misapplication in custody cases

Key Themes Identified

- Trauma-blind adjudication
- DV evidence minimized or reversed against protective parents
- Need for statutory clarification and training requirements

5. October 24, 2025 — Boise, Idaho

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Primary Focus Areas

- Attorney ethics and false statements
- Prosecutorial misconduct and conflicts of interest
- Sealing, transcript access, and appellate obstruction
- Public trust and systemic legitimacy

Key Themes Identified

- Weaponization of procedure and litigation abuse
- Suppression of records preventing appeal or oversight
- Broad erosion of public confidence in family courts

6. Final Legislative Synthesis Hearing — December 10, 2025

Location: Idaho State Legislature Boise, Idaho

Purpose

- Formal review of the draft White Paper
- Final synthesis of testimony received throughout the 2025 hearing cycle
- Identification of priority areas for legislative action

Key Confirmations

- The White Paper is derived exclusively from Task Force testimony and records

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Idaho’s custody statutes have not been comprehensively modernized since the 1990s
- Systemic failures identified are statewide and structural
- Legislative action—not further discretionary adjustment—is required

Issues Reaffirmed

- Prolonged temporary orders
- Lack of enforceable remedies for custody interference
- Inconsistent consideration of children’s preferences
- Absence of uniform evidentiary and procedural safeguards
- Structural limits of judicial oversight mechanisms
- Economic barriers to justice

Appendix E Conclusion

The hearings identified above constitute the complete public evidentiary record relied upon by the Task Force. The findings and recommendations in this White Paper are grounded in sworn testimony, documented submissions, survey data, and materials presented during these public proceedings. This appendix confirms that the report reflects both public testimony and the conclusions reached during the Task Force’s December 10, 2025, public synthesis hearing, providing a constitutionally sound foundation for statutory reform and policy action.

Appendix F — Summary of Core Legislative Recommendations

Condensed Reform Framework Derived from Task Force Findings

Purpose of This Appendix

This appendix provides a concise summary of the core legislative reforms supported by the evidentiary record, constitutional analysis, and testimony synthesized throughout this White Paper. It is designed as a quick-reference tool for legislators, committee staff, bill drafters, and oversight bodies.

The recommendations summarized here are fully developed and justified in Sections II–VII. Appendix F does not introduce new proposals; it distributes the reforms most consistently identified as necessary, urgent, and constitutionally required.

I. Procedural Due-Process Reforms

Objective: Restore timely adjudication, evidentiary integrity, and constitutional safeguards in custody proceedings.

- Establish mandatory time limits for temporary custody orders, with evidentiary hearings required within defined periods (e.g., 30–60 days).
- Require written findings identifying the statutory and constitutional basis for any extension of a temporary order.
- Create an interlocutory or expedited review mechanism when temporary orders exceed constitutional limits.
- Mandate priority scheduling when fundamental parental rights are implicated.
- Require courts to document reasons for delayed hearings or continued interim restrictions.

II. Judicial Accountability and Oversight Modernization

Objective: Ensure independent, transparent oversight capable of addressing systemic constitutional violations.

- Maintain the Idaho Judicial Council’s role in ethical discipline while removing systemic family-court oversight from a misconduct-only framework.
- Reassign constitutional-compliance review to judicial appointing and retention bodies with authority to evaluate performance patterns.
- Prohibit judges from ruling on their own disqualification motions; require independent review with written findings.
- Mandate public reporting of judicial performance metrics, including timelines, sealing practices, and access to records.
- Require independent audits of family-court practices and oversight mechanisms.

III. Transparency, Sealing, and Records Access Reform

Objective: Restore open courts, meaningful appellate review, and public accountability.

- Limit sealing orders to narrowly tailored circumstances supported by written findings.
- Require periodic review and expiration of sealing orders.
- Guarantee litigants timely access to transcripts, audio recordings, and court records, particularly for appeal.
- Prohibit sealing practices that function as gag orders or retaliation.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Codify ICAR 32 standards to prevent deviation from constitutional openness requirements.

IV. DHW/CPS Administrative-Law and Documentation Reforms

Objective: Ensure child-welfare actions are lawful, evidence-based, and constitutionally compliant.

- Require all DHW/CPS affidavits, reports, and recommendations submitted to courts to be sworn under penalty of perjury.
- Mandate uniform statewide investigative standards under the Idaho Administrative Procedure Act.
- Enforce statutory requirements for shelter-care and permanency hearings.
- Require judicial review and due-process protections for Central Registry placement.
- Establish record-preservation requirements and audit mechanisms for agency documentation.

V. Evaluator, Parenting Coordinator, and Reunification Program Regulation

Objective: Eliminate unregulated quasi-judicial authority exercised by private actors.

- Establish licensure and minimum qualifications for custody evaluators, parenting coordinators, and reunification providers.
- Require training in child development, domestic violence, coercive control, and trauma science.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Prohibit evaluators and PCs from issuing binding directives or quasi-judicial decisions.
- Require evaluator conclusions to comply with Daubert and Idaho Rules of Evidence standards.
- Mandate an independent oversight body with authority to investigate complaints and discipline misconduct.
- Require transparent, income-sensitive fee structures to prevent economic coercion.

VI. Domestic Violence and Coercive-Control Protections

Objective: Align custody adjudication with child safety, trauma science, and constitutional protections.

- Amend Idaho Code § 39-6303 to recognize coercive control as a form of domestic violence.
- Prohibit reliance on unscientific parental-alienation theories to override abuse evidence.
- Require courts to make explicit safety findings before ordering shared custody or reunification where DV is alleged.
- Mandate specialized DV and trauma-informed training for judges, evaluators, GALs, PCs, and mediators.
- Prohibit mandatory mediation in cases involving domestic violence or coercive control.

VII. Right-to-Counsel and Access-to-Justice Reforms

Objective: Prevent economic status from determining parental-rights outcomes.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Establish a limited right to counsel in high-risk custody cases involving DV, termination-like consequences, or severe constitutional concerns.
- Require courts to consider financial disparity when allocating attorney fees or evaluator costs.
- Guarantee transcript and recording fee waivers for indigent litigants.
- Regulate supervised-visitation fees and require statewide uniformity.
- Prohibit litigation tactics designed to financially exhaust or silence an opposing party.

VIII. Performance Metrics, Audits, and Fiscal Accountability

Objective: Enable legislative oversight and evidence-based budgeting.

- Require annual publication of standardized judicial performance metrics.
- Track duration of temporary orders, hearing timelines, sealing frequency, evaluator usage, and access-to-records outcomes.
- Include child-impact indicators such as medical delays, educational disruption, and placement instability.
- Condition future judicial appropriations on availability of transparent performance data.
- Mandate independent audits of family-court operations and oversight bodies.

Appendix F Conclusion

The reforms summarized in this appendix represent the minimum legislative action necessary to restore constitutional compliance, protect child safety, and reestablish public trust in Idaho's

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

family-court system. These recommendations are grounded in sworn testimony, survey data, administrative records, sealed material review, constitutional doctrine, and national best-practice standards.

Collectively, they provide Idaho legislators with a coherent, actionable reform framework capable of correcting systemic failures while preserving judicial independence and the separation of powers.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Appendix G — Proposed Metrics for Reform Evaluation

Metrics listed below are illustrative benchmarks derived from Task Force testimony, survey data, administrative review, and comparative standards, and are intended to support legislative oversight and future audit design

Metric	Baseline (2025):	Target → Responsible Entity
Average temporary-order duration	9–18 months	Target (2026): ≤ 45 days Responsible Entity: Administrative Office of the Courts
Judicial-complaint volume	~90/year	Target (2026): < 50/year Responsible Entity: Judicial Council
Pro se participation rate	~68%	Target (2026): < 40% Responsible Entity: Idaho Legal Aid / Judiciary
Evaluator complaint tracking	Not tracked	Target (2026): 100% logged Responsible Entity: Oversight Body (proposed) or Division of Occupational and Professional Licenses (DOPL).
Public trust in courts	~35%	Target (2026): > 70% Responsible Entity: Office of Performance Evaluations

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

Missed or delayed medical appointments due to court orders and/or lack of enforcement	Not tracked	100% tracked Responsible Entity: Administrative Office of the Courts
Educational disruptions caused by custody or placement changes	Not tracked	100% tracked Responsible Entity: Administrative Office of the Courts
Placement changes per child during pending proceedings	Not tracked	≤ 1 Responsible Entity: Administrative Office of the Courts

Appendix H — Index of Authorities and Statutes Cited²²

This index identifies all primary legal authorities, statutes, court rules, administrative frameworks, and scholarly sources relied upon or cited throughout this White Paper. It is intended to assist legislators, legislative staff, courts, and researchers in locating governing law and validating constitutional and statutory analysis referenced in the report.

I. Federal Constitutional and Supreme Court Authorities

- **Mathews v. Eldridge**, 424 U.S. 319 (1976)
(Procedural due process balancing test)
- **Santosky v. Kramer**, 455 U.S. 745 (1982)
(Clear and convincing evidence standard; parental rights)
- **Troxel v. Granville**, 530 U.S. 57 (2000)
(Fundamental parental liberty interest)
- **Daubert v. Merrell Dow Pharmaceuticals, Inc.**, 509 U.S. 579 (1993)
(Reliability standards for expert testimony)
- **Lassiter v. Department of Social Services**, 452 U.S. 18 (1981)
(Right to counsel analysis in parental-rights cases)
- **FCC v. Fox Television Stations, Inc.**, 556 U.S. 502 (2009)
(Due process and fair notice principles)
- **42 U.S.C. § 1983**
(Civil liability for deprivation of constitutional rights)

II. Idaho Constitutional Provisions

- **Idaho Constitution, Article I**
 - § 1 — Inalienable Rights (life, liberty, safety, happiness)
 - § 7 — Administration of Justice Without Sale, Denial, or Delay

²² This index is intended as a reference map, not a substitute for full citations contained in Appendix A. All authorities listed here are substantively relied upon in the constitutional, statutory, empirical, or testimonial analysis of this White Paper.

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- § 9 — Freedom of Speech and Press
- § 13 — Due Process of Law
- § 18 — Open Courts; Remedy for Every Injury
- **Idaho Constitution, *Article II***
(Legislative authority and fiscal oversight)
- **Idaho Constitution, *Article V***
(Judicial power; separation of powers; limits on delegation)

III. Idaho Statutes (Idaho Code)

Title 16 — Children

- § 16-1615 — Shelter Care Hearings
- § 16-1627 — Kinship Placement Preference
- § 16-2009 — Termination of Parental Rights (referenced for contrast with custody practice)

Title 32 — Domestic Relations

- § 32-704 — Custody Determinations; Best Interests of the Child
- § 32-717 — Custody Factors (primary statutory focus of reform discussion)

Title 39 — Health and Safety

- § 39-6303 — Domestic Violence Definitions and Protection Orders

Title 1 — Courts and Court Officers

- Chapter 21 — Idaho Judicial Council (scope and limitations)

IV. Idaho Court Rules

- **Idaho Rules of Family Law Procedure (IRFLP)**
 - Rule 109 — Judicial Disqualification
 - Rule 504 — Temporary Orders
 - Rules 704–705 — Evidence and Affidavits
- **Idaho Court Administrative Rule (ICAR)**

Idaho Family Courts: Statutory Intent, Constitutional Standards, and Observed Practice (2025)

- Rule 32 — Public Access to Court Records
-

V. Idaho Administrative Law and Agency Frameworks

- **Idaho Administrative Procedure Act (APA)**
(Uniformity, due process, and administrative authority)
- **Idaho Department of Health and Welfare (DHW) / Child Protective Services (CPS)**
 - Investigative protocols
 - Central Registry procedures
- **Idaho Division of Occupational and Professional Licenses (DOPL)**
(Evaluator and professional licensing authority referenced)

VI. National Judicial, Child-Welfare, and Access-to-Justice Authorities

- **National Association for Court Management (NACM)**
Transparency and Prompt Justice Standards (2023)
- **National Center for State Courts (NCSC)**
Judicial administration benchmarks
- **National Center for Access to Justice (NCAJ)**
Right-to-counsel and access-to-justice research
- **Office of Performance Evaluations (OPE)**
Public-sector accountability standards
- **U.S. Department of Health and Human Services (HHS)**
Child-welfare documentation and safety research
- **National Institute of Justice (NIJ)**
Domestic violence and coercive-control research (2021–2024)

VII. Scholarly and Professional Sources

- **Saunders, D.** (2021). *Custody Evaluations When Domestic Violence Is Alleged.*
- **Jaffe, P., & Johnston, J.** (2022). *Ethical and Clinical Challenges in High-Conflict Custody.*
- **Tyler, T.** (2020). *Why People Obey the Law.*

- **AFCC-Independent Reviews and Critiques**
(Evaluator practice and parental-alienation analysis)
- **UN Special Rapporteur on Violence Against Women and Children (2024)**
(Coercive control and child safety)

VIII. Comparative and Model Laws Referenced

- **Kayden’s Law** (Federal & State Adoption Models)
- **Washington HB 1901** — Coercive Control Codification
- **Hawaii SB 1419** — Trauma-Informed Custody Standards
- **Kentucky (2018)** — Parenting-time presumptions
- **Arkansas (2021)** — Joint-custody default
- **Texas (2023)** — Court transparency and parental-rights reforms

IX. Idaho-Specific Oversight and Ethics Frameworks

- **Idaho Code of Judicial Conduct**
- **Idaho Rules of Professional Conduct (IRPC)**
 - Rule 3.1 — Meritorious Claims
 - Rule 3.3 — Candor to the Tribunal
 - Rule 8.4 — Misconduct

Final Statement

This White Paper constitutes the official legislative record of the Idaho Child Custody and Domestic Relations Task Force for the 2025 hearing cycle. It reflects the testimony, documentary submissions, survey data, and materials presented during public proceedings, and the conclusions reached during the Task Force’s final public legislative synthesis hearing on December 10, 2025.

The findings set forth herein document systemic contradictions between statutory intent, constitutional guarantees, and observed practice within Idaho’s family-court system. These contradictions are not isolated or anomalous. They represent recurring patterns that affect children, families, professionals, and public confidence in the administration of justice.

This report does not adjudicate individual cases or assign liability. Its purpose is to preserve an accurate legislative record, inform statutory review, and support evidence-based reform consistent with Idaho’s constitutional framework. The Legislature retains full authority to determine the scope, timing, and form of any corrective action.

The Task Force recognizes that the conditions documented in this report are ongoing. Accordingly, this White Paper is intended to serve not only as a historical record, but as a foundation for continued legislative oversight, evaluation, and reform.

Issued For:

Idaho Legislature
Child Custody and Domestic Relations Task Force

Date: December 2025

Version: 1.0

End of Report