

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 692, As Amended

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO CHILD PROTECTION HEARINGS; AMENDING SECTION 16-1613, IDAHO CODE, TO REVISE A PROVISION REGARDING ATTENDANCE AT HEARINGS; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1613A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ATTENDANCE AT HEARINGS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 16-1613, Idaho Code, be, and the same is hereby amended to read as follows:

16-1613. HEARINGS UNDER ~~THE CHILD PROTECTIVE ACT~~ THIS CHAPTER. (1) Proceedings under this chapter shall be dealt with by the court at hearings separate from those for adults and without a jury. The hearings shall be conducted in an informal manner and may be adjourned from time to time. ~~The general public shall be excluded, and only such persons shall be admitted as are found by the court to have a direct interest in the case. The child may be excluded from hearings at any time at the discretion of the court.~~ If the parent or guardian is without counsel, the court shall inform them of their right to be represented by counsel and to appeal from any disposition or order of the court.

(2) When a child is summoned as a witness in any hearing under this ~~act~~ chapter, notwithstanding any other statutory provision, parents, a counselor, a friend, or other person having a supportive relationship with the child shall, if available, be permitted to remain in the courtroom at the witness stand with the child during the child's testimony unless, in written findings made and entered, the court finds that the constitutional right of the child's parent(s), guardian(s) or other custodian(s) to a fair hearing will be unduly prejudiced.

(3) At any stage of a proceeding under this chapter, if the court determines that it is in the best interests of the child or society, the court may cause the proceeding to be expanded or altered to include full or partial consideration of the cause under ~~the juvenile corrections act~~ chapter 5, title 20, Idaho Code, without terminating the original proceeding under this chapter.

SECTION 2. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1613A, Idaho Code, and to read as follows:

16-1613A. ATTENDANCE AT HEARINGS. (1) The court shall state on the record its reasoning for admitting or excluding non-parties from a hearing. Admittance to a hearing does not confer party status. Findings by the court

1 to either admit or exclude a person from a hearing shall not prevent the court
2 from proceeding with the hearing or issuing any ruling, decision, or order.

3 (2) Children subject to this chapter have the right to participate in
4 all proceedings, including the opportunity to personally attend every hear-
5 ing. The court may waive the presence of a child in hearings if it is unsafe
6 or inappropriate for the child to be at such hearing.

7 (3) The department, parents whose rights have not been terminated,
8 guardians, legal custodians, tribal representatives, assigned guardians
9 ad litem, the assigned prosecuting attorney or deputy attorney general and
10 counsel for each of these entities, and any child subject to this chapter
11 shall be permitted to attend every hearing unless the court finds them dis-
12 ruptive to the hearing or engaging in improper conduct and makes a written
13 record of that finding.

14 (4) There exists a rebuttable presumption that the following persons
15 shall be admitted to hearings under this chapter:

16 (a) Any individual identified as a parent, guardian, legal custodian,
17 or the child or who has knowledge or information relevant to the welfare
18 and best interests of the child;

19 (b) Any relative, fictive kin, or other interested persons with whom
20 the child is or may be placed as described in section 16-1629, Idaho
21 Code;

22 (c) Foster parents;

23 (d) Any persons who have the right to confidential information about
24 the child necessary for the performance of their duties;

25 (e) The child's treatment and service providers; and

26 (f) Staff of the department, a guardian ad litem agency, a prosecuting
27 attorney's office, the office of the attorney general, or the office of
28 the state public defender where such persons would attend to supervise
29 or support assigned staff or in furtherance of staff professional de-
30 velopment on the processes set forth in this chapter.

31 (5) There exists a rebuttable presumption that all other persons shall
32 not be admitted to hearings under this chapter.

33 (6) In determining the persons to be admitted or excluded from a hear-
34 ing, the court shall consider the following factors:

35 (a) The best interests of the child;

36 (b) The wishes of the child as stated by the child's guardian ad litem or
37 attorney;

38 (c) Whether any person's attendance would endanger the child's physi-
39 cal or emotional well-being or the safety of any other person;

40 (d) Any agreement between the parties;

41 (e) Whether the person's attendance would cause specific material harm
42 to a criminal investigation or prosecution; and

43 (f) Prior disruptions of court proceedings by a person in any case.

44 (7) This section shall not be construed to prohibit the exclusion of
45 witnesses at a hearing where their exclusion is authorized by court rules.
46 This section shall not be construed to limit which witnesses may be called to
47 testify at a hearing.

48 SECTION 3. An emergency existing therefor, which emergency is hereby
49 declared to exist, this act shall be in full force and effect on and after
50 July 1, 2026.