

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 953

BY CAYLER

AN ACT

1 RELATING TO CHILD PROTECTION; AMENDING SECTION 16-1602, IDAHO CODE, TO RE-  
2 VISE A DEFINITION; AMENDING SECTION 16-1605, IDAHO CODE, TO REVISE PRO-  
3 VISIONS REGARDING REPORTING ABUSE, ABANDONMENT, OR NEGLECT; AMENDING  
4 SECTION 16-1606, IDAHO CODE, TO REVISE PROVISIONS REGARDING IMMUNITY;  
5 AMENDING SECTION 16-1610, IDAHO CODE, TO REVISE PROVISIONS REGARDING A  
6 PETITION; AMENDING SECTION 16-1611, IDAHO CODE, TO REVISE PROVISIONS  
7 REGARDING SUMMONS; AMENDING SECTION 16-1615, IDAHO CODE, TO REVISE  
8 PROVISIONS REGARDING SHELTER CARE HEARINGS; AMENDING SECTION 16-1619,  
9 IDAHO CODE, TO REVISE PROVISIONS REGARDING AN ADJUDICATORY HEARING; AND  
10 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
11

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

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

15 16-1602. DEFINITIONS. For purposes of this chapter:  
16 (1) "Abused" means any case in which a child has been the victim of:  
17 (a) Conduct or omission resulting in skin bruising, bleeding, mal-  
18 nutrition, burns, fracture of any bone, head injury, soft tissue  
19 swelling, failure to thrive or death, and such condition or death is not  
20 justifiably explained, or where the history given concerning such con-  
21 dition or death is at variance with the degree or type of such condition  
22 or death, or the circumstances indicate that such condition or death may  
23 not be the product of an accidental occurrence; or  
24 (b) Sexual conduct, including rape, molestation, incest, commercial  
25 sexual activity, obscene or pornographic photographing, filming or de-  
26 piction for commercial purposes, human trafficking as defined in chap-  
27 ter 86, title 18, Idaho Code, or other similar forms of sexual exploita-  
28 tion harming or threatening the child's health or welfare or mental in-  
29 jury to the child.  
30 (2) "Abandoned" means the failure of the parent to maintain a normal  
31 parental relationship with his child including, but not limited to, reason-  
32 able support or regular personal contact. Failure to maintain this rela-  
33 tionship without just cause for a period of one (1) year shall constitute  
34 prima facie evidence of abandonment.  
35 (3) "Adaptive equipment" means any piece of equipment or any item that  
36 is used to increase, maintain or improve the parenting capabilities of a par-  
37 ent with a disability.  
38 (4) "Adjudicatory hearing" means a hearing to determine:  
39 (a) Whether the child comes under the jurisdiction of the court pur-  
40 suant to the provisions of this chapter;  
41 (b) Whether continuation of the child in the home would be contrary to  
42 the child's welfare and whether the best interest of the child requires

1 protective supervision or vesting legal custody of the child in an au-  
2 thorized agency.

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

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

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

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

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

16 (i) Abandonment, chronic abuse or chronic neglect of the child.  
17 Chronic neglect or chronic abuse of a child shall consist of abuse  
18 or neglect that is so extreme or repetitious as to indicate that  
19 return of the child to the home would result in unacceptable risk  
20 to the health and welfare of the child.

21 (ii) Sexual abuse against a child of the parent. Sexual abuse, for  
22 the purposes of this section, includes any conduct described in  
23 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,  
24 or 18-6604, or chapter 86, title 18, Idaho Code.

25 (iii) Torture of a child. Any conduct listed in section  
26 18-8303(1), Idaho Code; battery or an injury to a child that re-  
27 sults in serious or great bodily injury to a child; voluntary  
28 manslaughter of a child, or aiding or abetting such voluntary  
29 manslaughter, soliciting such voluntary manslaughter or attempt-  
30 ing or conspiring to commit such voluntary manslaughter;

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

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

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

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

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

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

46 (11) "Child advocacy center" or "CAC" means an organization that ad-  
47 heres to national best practice standards established by the national  
48 membership and accrediting body for children's advocacy centers and that  
49 promotes a comprehensive and coordinated multidisciplinary team response to  
50 allegations of child abuse by maintaining a child-friendly facility at which

1 appropriate services are provided. These services may include forensic in-  
2 terviews, forensic medical examinations, mental health services and other  
3 related victim services.

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

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

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

9 (15) "Court" means district court or magistrate division thereof or, if  
10 the context requires, a magistrate or judge thereof.

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

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

16 (18) "Disability" means, with respect to an individual, any mental or  
17 physical impairment that substantially limits one (1) or more major life  
18 activities of the individual including, but not limited to, self-care, man-  
19 ual tasks, walking, seeing, hearing, speaking, learning or working, or a  
20 record of such an impairment, or being regarded as having such an impairment.  
21 Disability shall not include transvestism, transsexualism, pedophilia,  
22 exhibitionism, voyeurism, other sexual behavior disorders, or substance use  
23 disorders, compulsive gambling, kleptomania or pyromania. Sexual prefer-  
24 ence or orientation is not considered an impairment or disability. Whether  
25 an impairment substantially limits a major life activity shall be determined  
26 without consideration of the effect of corrective or mitigating measures  
27 used to reduce the effects of the impairment.

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

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

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

36 (22) "Grant administrator" means the supreme court or any organization  
37 or agency as may be designated by the supreme court in accordance with such  
38 procedures as may be adopted by the supreme court. The grant administrator  
39 shall administer funds from the guardian ad litem account in accordance with  
40 the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (31) "Neglected" means a child:

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

39 (b) Whose parent, guardian or other custodian is unable to discharge  
40 the responsibilities to and for the child and, as a result of such in-  
41 ability, the child lacks the parental care necessary for his health,  
42 safety or well-being; or

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

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

46 (32) "Order to prevent removal," as described in section 16-1611(5),  
47 Idaho Code, means an order to allow a child to remain in the child's present  
48 surroundings when there is ~~reasonable cause to believe~~ reliable evidence  
49 that the child is safe in the sole care of one (1) parent, legal guardian, or

1 legal custodian and when there is alleged neglect or abuse by another parent,  
2 legal guardian, or legal custodian.

3 (33) "Permanency hearing" means a hearing to review, approve, reject or  
4 modify the permanency plan of the department and to review reasonable ef-  
5 forts in accomplishing the permanency plan.

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

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

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

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

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

27 (39) "Reasonable and prudent parent standard" means the standard of  
28 care characterized by careful and sensible parental decisions that main-  
29 tain the health, safety and best interests of a child while simultaneously  
30 encouraging the emotional and developmental growth of the child that a care-  
31 giver shall use when determining whether to allow a child in foster care  
32 under the responsibility of the state to participate in extracurricular,  
33 enrichment, cultural or social activities.

34 (40) "Relative" means a child's grandparent, great grandparent, aunt,  
35 great aunt, uncle, great uncle, brother-in-law, sister-in-law, first  
36 cousin, sibling and half-sibling.

37 (41) "Residual parental rights and responsibilities" means those  
38 rights and responsibilities remaining with the parents after the transfer of  
39 legal custody including, but not necessarily limited to, the right of visi-  
40 tation, the right to consent to adoption, the right to determine religious  
41 affiliation, the right to family counseling when beneficial, and the respon-  
42 sibility for support.

43 (42) "Shelter care" means places designated by the department for tem-  
44 porary care of children pending court disposition or placement.

45 (43) "Supportive services," as used in this chapter, shall mean ser-  
46 vices that assist parents with a disability to compensate for those aspects  
47 of their disability that affect their ability to care for their child and  
48 that will enable them to discharge their parental responsibilities. The  
49 term includes specialized or adapted training, evaluations or assistance  
50 with effectively using adaptive equipment and accommodations that allow

1 parents with a disability to benefit from other services including, but not  
2 limited to, Braille texts or sign language interpreters.

3 SECTION 2. That Section 16-1605, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 16-1605. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT. (1) Any physi-  
6 cian, resident on a hospital staff, intern, nurse, coroner, school teacher,  
7 day care personnel, social worker, or other person having ~~reason to believe~~  
8 reliable evidence that a child under the age of eighteen (18) years has been  
9 abused, abandoned or neglected or who observes the child being subjected to  
10 conditions or circumstances that would reasonably result in abuse, abandon-  
11 ment or neglect shall report or cause to be reported within twenty-four (24)  
12 hours such conditions or circumstances to the proper law enforcement agency  
13 or the department. The department shall be informed by law enforcement of  
14 any report made directly to it. If the department knows or has reason to know  
15 that an adult in the home has been convicted of lewd and lascivious conduct or  
16 felony injury to a child in the past or that the child has been removed from  
17 the home for circumstances that resulted in a conviction for lewd and lasciv-  
18 ious conduct or felony injury to a child, then the department shall investi-  
19 gate. When the attendance of a physician, resident, intern, nurse, day care  
20 worker, or social worker is pursuant to the performance of services as a mem-  
21 ber of the staff of a hospital or similar institution, he shall notify the  
22 person in charge of the institution or his designated delegate who shall make  
23 the necessary reports.

24 (2) For purposes of subsection (3) of this section, the term "duly  
25 ordained minister of religion" means a person who has been ordained or set  
26 apart, in accordance with the ceremonial, ritual or discipline of a church  
27 or religious organization which has been established on the basis of a  
28 community of religious faith, belief, doctrines and practices, to hear con-  
29 fessions and confidential communications in accordance with the bona fide  
30 doctrines or discipline of that church or religious organization.

31 (3) The notification requirements of subsection (1) of this section do  
32 not apply to a duly ordained minister of religion, with regard to any confes-  
33 sion or confidential communication made to him in his ecclesiastical capac-  
34 ity in the course of discipline enjoined by the church to which he belongs if:

35 (a) The church qualifies as tax-exempt under 26 U.S.C. 501(c) (3);

36 (b) The confession or confidential communication was made directly to  
37 the duly ordained minister of religion; and

38 (c) The confession or confidential communication was made in the manner  
39 and context that places the duly ordained minister of religion specif-  
40 ically and strictly under a level of confidentiality that is considered  
41 inviolate by canon law or church doctrine. A confession or confiden-  
42 tial communication made under any other circumstances does not fall un-  
43 der this exemption.

44 (4) Failure to report as required in this section shall be a misde-  
45 meanor.

46 SECTION 3. That Section 16-1606, Idaho Code, be, and the same is hereby  
47 amended to read as follows:

1           16-1606. IMMUNITY. Any person who has ~~reason to believe~~ reliable evi-  
 2 dence that a child has been abused, abandoned or neglected and, acting upon  
 3 that belief, makes a report of abuse, abandonment or neglect as required in  
 4 section 16-1605, Idaho Code, shall have immunity from any liability, civil  
 5 or criminal, that might otherwise be incurred or imposed. Any such partic-  
 6 ipant shall have the same immunity with respect to participation in any such  
 7 judicial proceeding resulting from such report. Any person who reports in  
 8 bad faith or with malice shall not be protected by this section. Any priv-  
 9 ilege between husband and wife, or between any professional person except  
 10 the lawyer-client privilege, including but not limited to physicians, coun-  
 11 selors, hospitals, clinics, day care centers and schools and their clients  
 12 shall not be grounds for excluding evidence at any proceeding regarding the  
 13 abuse, abandonment or neglect of the child or the cause thereof.

14           SECTION 4. That Section 16-1610, Idaho Code, be, and the same is hereby  
 15 amended to read as follows:

16           16-1610. PETITION. (1) A petition invoking the jurisdiction of the  
 17 court under this chapter shall be filed in the manner provided in this sec-  
 18 tion:

19           (a) A petition must be signed by the prosecutor or deputy attorney gen-  
 20 eral before being filed with the court.

21           (b) Any person or governmental body of this state having reliable evi-  
 22 dence of abuse, abandonment, neglect or homelessness of a child may re-  
 23 quest the attorney general or prosecuting attorney to file a petition.  
 24 The prosecuting attorney or the attorney general may file a petition on  
 25 behalf of any child whose parent, guardian, or custodian has been ac-  
 26 cused in a criminal complaint of the crime of cruel treatment or neglect  
 27 as defined in section 18-1501, Idaho Code.

28           (2) Petitions shall be entitled "In the Matter of....., a  
 29 child under the age of eighteen (18) years" and shall be verified and set  
 30 forth with specificity:

31           (a) The facts which bring the child within the jurisdiction of the court  
 32 upon the grounds set forth in section 16-1603, Idaho Code, with the ac-  
 33 tions of each parent described therein;

34           (b) The name, birth date, sex, and residence address of the child;

35           (c) The name, birth date, sex, and residence address of all other chil-  
 36 dren living at or having custodial visitation at the home where the in-  
 37 jury to the subject child occurred;

38           (d) The names and residence addresses of both the mother and father,  
 39 guardian or other custodian. If neither of his parents, guardian or  
 40 other custodian resides or can be found within the state, or if their  
 41 residence addresses are unknown, the name of any known adult relative  
 42 residing within the state;

43           (e) The names and residence addresses of each person having sole or  
 44 joint legal custody of the children described in this section;

45           (f) Whether or not there exists a legal document including, but not lim-  
 46 ited to, a divorce decree, stipulation or parenting agreement control-  
 47 ling the custodial status of the children described in this section;

1 (g) Whether the child is in shelter care, and, if so, the type and nature  
 2 of the shelter care, the circumstances necessitating such care and the  
 3 date and time he was placed in such care;

4 (h) When any of the facts required by this section cannot be determined,  
 5 the petition shall so state. The petition may be based on information  
 6 and belief but in such case the petition shall state the basis of such  
 7 information and belief;

8 (i) If the child has been or will be removed from the home, the petition  
 9 shall state that:

10 (i) Remaining in the home was contrary to the welfare of the  
 11 child;

12 (ii) Vesting legal custody of the child in the department or other  
 13 authorized agency is in the best interests of the child; and

14 (iii) Reasonable efforts have been made prior to the placement of  
 15 the child in care to prevent the removal of the child from his home  
 16 or, if such efforts were not provided, that reasonable efforts to  
 17 prevent placement were not required because aggravated circum-  
 18 stances were found;

19 (j) The petition shall state with specificity whether a parent with  
 20 joint legal custody or a noncustodial parent has been notified of place-  
 21 ment;

22 (k) The petition shall state whether a court has adjudicated the cus-  
 23 todial rights of the parents and shall set forth the custodial status of  
 24 the child;

25 (l) The court may combine petitions and hearings where multiple peti-  
 26 tions have been filed involving related children, parents or guardians.

27 SECTION 5. That Section 16-1611, Idaho Code, be, and the same is hereby  
 28 amended to read as follows:

29 16-1611. SUMMONS. (1) After a petition has been filed, the clerk of the  
 30 court may issue a summons requiring the person or persons who have custody  
 31 of the child to bring the child before the court at the adjudicatory hearing  
 32 held in accordance with section 16-1619, Idaho Code. Each parent or guardian  
 33 shall also be notified in the manner hereinafter provided of the pendency of  
 34 the case and the time and place set for the hearing. A summons shall be is-  
 35 sued and served requiring the appearance of each parent and legal guardian,  
 36 and a summons may be issued and served for any other person whose presence is  
 37 required by the child, either of his parents or guardian or any other person  
 38 whose presence, in the opinion of the court, is necessary.

39 (2) A copy of the petition shall be attached to each summons.

40 (3) The summons shall notify each of the parents, guardian or legal cus-  
 41 todian of their right to retain and be represented by counsel. Each parent  
 42 or legal guardian of each child named in the petition shall be notified by the  
 43 court of the case and of the time and place set for the hearing.

44 (4) If based on facts presented to the court, it appears that the court  
 45 has jurisdiction upon the grounds set forth in section 16-1603, Idaho Code,  
 46 and the court finds that the child should be removed from his present condi-  
 47 tion or surroundings because continuation in such condition or surroundings  
 48 would be contrary to the welfare of the child and vesting legal custody with  
 49 the department or other authorized agency would be in the child's best in-

1     terests, the court shall include on the summons an order to remove the child.  
 2     The order to remove the child shall specifically state that continuation in  
 3     the present condition or surroundings is contrary to the welfare of the child  
 4     and shall require a peace officer or other suitable person to take the child  
 5     at once to a place of shelter care designated by the authorized agency which  
 6     shall provide shelter care for the child.

7     (5) (a) If there is ~~reasonable cause to believe~~ reliable evidence that  
 8     a child would be safe in the child's present surroundings in the sole  
 9     care of one (1) parent, legal guardian, or legal custodian and neglect  
 10    or abuse by another parent, legal guardian, or legal custodian is al-  
 11    leged, then a prosecutor or the attorney general may file a motion with  
 12    the court for an order to prevent removal of the child that excludes the  
 13    alleged offending parent, legal guardian, or legal custodian from the  
 14    residence where the child resides. If the court finds ~~reasonable cause~~  
 15    ~~to believe~~ reliable evidence that such elements have been demonstrated,  
 16    the court shall issue an order that shall exclude the alleged offending  
 17    parent, legal guardian, or legal custodian from the dwelling where the  
 18    child resides, restrain any contact or communication with the child,  
 19    and restrain the alleged offending parent, legal guardian, or legal  
 20    custodian from coming within one thousand five hundred (1,500) feet,  
 21    or other appropriate distance, of the child until further order of the  
 22    court.

23    (b) A motion filed pursuant to paragraph (a) of this subsection shall be  
 24    accompanied by a sworn affidavit from a law enforcement officer or the  
 25    department.

26    (c) A copy of an order to prevent removal along with a copy of the peti-  
 27    tion and summons shall be served on the alleged offending parent, legal  
 28    guardian, or legal custodian, and all parents, legal guardians, or le-  
 29    gal custodians shall receive notice of a hearing on whether to continue  
 30    an order within forty-eight (48) hours, excluding Saturdays, Sundays,  
 31    and holidays.

32    (d) The court shall continue an order to prevent removal until further  
 33    order of the court if, at a hearing on whether to continue the order, the  
 34    prosecutor or attorney general shows:

35       (i) A petition and summons have been issued pursuant to subsec-  
 36       tion (1) of this section;

37       (ii) There is ~~reasonable cause to believe~~ reliable evidence the  
 38       child is safe in the child's current surroundings in the sole care  
 39       of one (1) parent, legal guardian, or legal custodian but has been  
 40       neglected or abused by the other parent, legal guardian, or legal  
 41       custodian; and

42       (iii) Continuation of the order is in the child's best interest.

43    (e) Any person who fails to abide by an order to prevent removal shall  
 44    be guilty of misdemeanor criminal contempt, as described in section  
 45    18-1801, Idaho Code.

46    SECTION 6. That Section 16-1615, Idaho Code, be, and the same is hereby  
 47    amended to read as follows:

48       16-1615. SHELTER CARE HEARING. (1) Notwithstanding any other provi-  
 49       sion of this chapter, when a child is taken into shelter care pursuant to sec-

1 tion 16-1608 or 16-1611, Idaho Code, a hearing to determine whether the child  
2 should be released shall be held according to the provisions of this section.

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

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

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

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

20 (a) A petition has been filed; and

21 (b) There is ~~reasonable cause to believe~~ reliable evidence the child  
22 comes within the jurisdiction of the court under this chapter and ei-  
23 ther:

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

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

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

31 (d) It is contrary to the welfare of the child to remain in the home; and

32 (e) It is in the best interests of the child to remain in temporary shel-  
33 ter care pending the conclusion of the adjudicatory hearing.

34 The court shall issue, within twenty-four (24) hours of such hearing, a shel-  
35 ter care order placing the child in the temporary legal custody of the de-  
36 partment or other authorized agency. Any reliable evidence may be consid-  
37 ered by the court which is of the type which reasonable people may rely upon.

38 (6) Upon finding ~~reasonable cause~~ reliable evidence pursuant to sub-  
39 section (5) (b) of this section, the court shall order an adjudicatory hear-  
40 ing to be held as soon as possible, but in no event later than thirty (30) days  
41 from the date the petition was filed. In addition, the court shall inquire  
42 whether there is reason to believe that the child is an Indian child.

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

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

47 (b) If a sibling group was removed from their home, about the depart-  
48 ment's efforts to place the siblings together, or if the department has  
49 not placed or will not be placing the siblings together, about a plan  
50 to ensure frequent visitation or ongoing interaction among the sib-

1 lings, unless visitation or ongoing interaction would be contrary to  
2 the safety or well-being of one (1) or more of the siblings.

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

6 (9) If the court does not find ~~reasonable cause~~ reliable evidence pur-  
7 suant to subsection (5) (b) of this section, the court shall dismiss the peti-  
8 tion.

9 SECTION 7. That Section 16-1619, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDA-  
12 TION. (1) When a petition has been filed, the court shall set an adjudicatory  
13 hearing to be held no later than thirty (30) days after the filing of the  
14 petition.

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

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

26 (4) If ~~a preponderance of the~~ clear and convincing evidence at the adju-  
27 dicatory hearing shows that the child comes within the court's jurisdiction  
28 under this chapter upon the grounds set forth in section 16-1603, Idaho Code,  
29 the court shall so decree and in its decree shall make a finding on the record  
30 of the facts and conclusions of law upon which it exercises jurisdiction over  
31 the child. A child shall not come within the court's jurisdiction under this  
32 chapter on the basis of hearsay alone, but shall be supported by relevant and  
33 probative evidence on the record.

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

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

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

47 (6) If the court vests legal custody in the department or other autho-  
48 rized agency, the court shall make detailed written findings based on facts  
49 in the record that, in addition to the findings required in subsection (4) of

1 this section, continuation of residence in the home would be contrary to the  
2 welfare of the child and that vesting legal custody with the department or  
3 other authorized agency would be in the best interests of the child. In ad-  
4 dition, the court shall make detailed written findings based on facts in the  
5 record as to whether the department made reasonable efforts to prevent the  
6 placement of the child in foster care, including findings, when appropriate,  
7 that:

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

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

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

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

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

20 (i) Whether there is reason to believe that the child is an Indian  
21 child;

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

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

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

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

32 (ii) If a sibling group was removed from the home, the depart-  
33 ment's efforts to place the siblings together, or if the depart-  
34 ment has not placed or will not be placing the siblings together,  
35 about a plan to ensure frequent visitation or ongoing interac-  
36 tion among the siblings, unless visitation or ongoing interaction  
37 would be contrary to the safety or well-being of one (1) or more of  
38 the siblings.

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

42 (i) The department shall report to the court the medications and  
43 dosages prescribed for the child and the medical professional who  
44 prescribed the medication; and

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

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

49 (9) A decree vesting legal custody in an authorized agency other than  
50 the department shall be for a period of time not to exceed the child's eigh-

1     teenth birthday and on such other terms as the court shall state in its decree  
2     to be in the best interests of the child and which the court finds to be ac-  
3     ceptable to such authorized agency.

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

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

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

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

21       (c) The interaction and interrelationship of the child with his parent  
22       or parents or foster parent or foster parents, and the child's siblings;

23       (d) The child's adjustment to his home, school and community;

24       (e) The character and circumstances of all individuals involved;

25       (f) The need to promote continuity and stability in the life of the  
26       child; and

27       (g) A history of domestic violence as defined in section 39-6303, Idaho  
28       Code, whether or not in the presence of the child, or a conviction for  
29       lewd and lascivious conduct or felony injury to a child.

30     SECTION 8. An emergency existing therefor, which emergency is hereby  
31     declared to exist, this act shall be in full force and effect on and after  
32     July 1, 2026.