

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 954

BY CAYLER

AN ACT

1 RELATING TO THE IDAHO CHILD PROTECTION CENTRAL REGISTRY; PROVIDING LEGISLA-
2 TIVE INTENT; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION
3 OF A NEW SECTION 16-1650, IDAHO CODE, TO PROVIDE CERTAIN PROCEDURES AND
4 PROTECTIONS FOR PERSONS LISTED ON THE IDAHO CHILD PROTECTION CENTRAL
5 REGISTRY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
6

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

8 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to
9 ensure that Idaho's procedures for listing individuals on the Idaho Child
10 Protection Central Registry comport with constitutional due process re-
11 quirements, and the Legislature does so for the following reasons:

12 (1) The Fifth and Fourteenth Amendments of the Constitution of the
13 United States prohibit governments from depriving individuals of their lib-
14 erty or property interests without due process of law;

15 (2) Idaho has established procedures for collecting child abuse and
16 child neglect investigation records in the Idaho Child Protection Central
17 Registry, IDAPA 16.06.01, Sections 561. through 566., that include the
18 identities of individuals alleged to have abused or neglected a child;

19 (3) The names in the Idaho Child Protection Central Registry may be dis-
20 closed to certain third parties in the course of background checks related to
21 an individual's employment, licensure, and volunteer activities;

22 (4) Such disclosures may have a significant negative impact on an indi-
23 vidual's liberty and property interests, including the loss or denial of em-
24 ployment and reputation in the community; and

25 (5) Such disclosures can cause long-term harm to an individual's abil-
26 ity to earn a living and may disproportionately impact individuals strug-
27 gling with conditions of poverty.

28 SECTION 2. That Chapter 16, Title 16, Idaho Code, be, and the same is
29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
30 ignated as Section 16-1650, Idaho Code, and to read as follows:

31 16-1650. IDAHO CHILD PROTECTION CENTRAL REGISTRY -- HEARING, NOTICE,
32 AND EXPUNGEMENT. (1) Information about an alleged perpetrator of child abuse
33 or child neglect shall not be included in the Idaho child protection central
34 registry absent a criminal charge. A hearing must be held, with notice pro-
35 vided to the alleged perpetrator, where inclusion in the registry shall re-
36 quire clear and convincing evidence.

37 (2) Before the department may add an alleged perpetrator to the Idaho
38 child protection central registry, the department shall provide notice to
39 the alleged perpetrator of its intent to list the alleged perpetrator's name
40 in the registry within forty-five (45) days of a court's ruling finding the
41 allegations have been substantiated via written notice by signature-cer-

1 tified mail. If the department does not provide such written notice within
2 forty-five (45) days, the department shall not list the alleged perpetra-
3 tor's name in the registry or in any other program, bureau, registry, or
4 listing utilized by the department for such purpose, and the assigned social
5 worker shall be subject to the provisions of section 56-1008, Idaho Code, to
6 disciplinary action, including but not limited to review, retraining, and
7 relicensing for social work, and to claims of civil rights violations and
8 parental rights violations. Written notice required in this subsection must
9 include the following:

10 (a) A clear statement of the specific allegations that will be added to
11 the registry, including the name of the alleged perpetrator and the al-
12 leged victim, the injuries or harm alleged to have resulted from child
13 abuse or neglect, and the date on which the report was made;

14 (b) The consequences of being listed in the registry, including pos-
15 sible negative impacts on the alleged perpetrator's employment, licen-
16 sure, and ability to have future contact with children, which includes
17 contact at volunteer and school activities;

18 (c) The maximum amount of time the individual's name will be included in
19 the registry, provided that such amount of time, excluding those placed
20 with a level one designation, shall not exceed ten (10) years;

21 (d) A complete copy of the record that is to be added to the registry;
22 and

23 (e) Confirmation that the department has scheduled a hearing to review
24 its findings and the contact information for the fair hearings unit.

25 (3) The department shall submit a request for a hearing to the office of
26 administrative hearings within thirty (30) days of a court finding substan-
27 tiating allegations of child abuse or neglect against an alleged perpetra-
28 tor.

29 (4) Each child welfare case shall be reviewed by the child protection
30 legislative oversight committee and the citizen review panel of the respec-
31 tive health district in which the case is presented prior to the department
32 listing the alleged perpetrator in the Idaho child protection central reg-
33 istry. The department shall provide a copy of the child welfare case in its
34 entirety to the oversight committee and the citizen review panel. The over-
35 sight committee and the citizen review panel shall provide a written report
36 of their findings to the judge presiding over the child welfare case and the
37 department-assigned case worker. The written report shall be provided to
38 the alleged perpetrator within forty-five (45) days of a court ruling of sub-
39 stantiated allegations.

40 (5) The department shall not add an alleged perpetrator to the Idaho
41 child protection central registry or release information to any third party
42 until all appeals are either exhausted or waived by the alleged perpetrator
43 and written notice via signature-certified mail has been received by the al-
44 leged perpetrator.

45 (6) Upon receipt of a request for a hearing from the department regard-
46 ing its intention to list an alleged perpetrator in the Idaho child protec-
47 tion central registry, the office of administrative hearings shall contact
48 the parties to schedule a date for the hearing, which shall be held no later
49 than forty-five (45) days from the date of request for a hearing.

1 (7) A hearing held pursuant to this section shall be considered a con-
2 tested case and be eligible for appeal to a court of competent jurisdiction.

3 (8) Prior to a hearing, the department shall provide the alleged perpe-
4 trator with a copy of the full investigative file including any exculpatory
5 evidence within its possession or control at no cost to the alleged perpetra-
6 tor, and a hearing officer shall allow discovery between the department and
7 the alleged perpetrator and shall not issue a decision without consideration
8 of all factual evidence.

9 (9) For a finding of child abuse or child neglect to be substantiated,
10 the department must show at a hearing that such child abuse or child neglect
11 occurred and that the specific alleged perpetrator named caused the alleged
12 child abuse or child neglect.

13 (10) At a hearing held pursuant to this section, the alleged perpetrator
14 shall have the right to:

15 (a) Be represented by counsel;

16 (b) Present sworn evidence, law, or rules related to the allegation,
17 and the hearing officer shall not refuse to hear such evidence, law, or
18 rules; and

19 (c) Subpoena witnesses, cross-examine any department witnesses, in-
20 troduce evidence, object to evidence introduced by the department, and
21 make a closing argument.

22 (11) Within forty-five (45) days after the conclusion of a hearing con-
23 ducted pursuant to this section, the hearing officer shall issue a written
24 decision containing findings of fact and conclusions of law. The findings
25 of fact shall be based on competent evidence and substantial evidence in the
26 record. Documentary evidence, including medical records when relevant,
27 shall be considered. A finding against an alleged perpetrator shall not be
28 based solely on hearsay evidence or uncorroborated testimony.

29 (12) If the hearing officer finds, by clear and convincing evidence,
30 that there is sufficient evidence to support the department's allegations,
31 the substantiated allegations against the perpetrator shall, within thirty
32 (30) days, be entered in the Idaho child protection central registry for a
33 period of time not to exceed ten (10) years or until the alleged victim turns
34 eighteen (18) years of age, whichever occurs first, except for those perpe-
35 trators with a level one designation. A written letter of confirmation of
36 substantiated allegations shall be provided to the perpetrator via signa-
37 ture-certified mail from the department along with a copy of the decision,
38 both at no cost to the perpetrator. A copy of the confirmation shall also be
39 submitted to any other child registries, including any national child reg-
40 istries utilized by the department. If the department does not provide such
41 written confirmation within thirty (30) days of the decision, the department
42 shall not be allowed to list the perpetrator in the registry or any other pro-
43 gram, registry, or listing utilized by the department for such purpose, and
44 the assigned department social worker shall be subject to the provisions of
45 section 56-1008, Idaho Code, to disciplinary action, including but not lim-
46 ited to review, retraining, and relicensing for social work, and to claims of
47 civil rights violations and parental rights violations.

48 (13) If the hearing officer finds a lack of clear and convincing evi-
49 dence to support the allegations of child abuse or child neglect, the offi-
50 cer shall order the department to amend its finding accordingly, and the al-

1 leged perpetrator shall not be entered in to the Idaho child protection cen-
2 tral registry or in any other program, registry, or listing utilized by the
3 department for such purpose, and the assigned department social worker shall
4 be subject to the provisions of sections 16-1607 and 56-1008, Idaho Code.
5 If the hearing officer finds that there is insufficient evidence to support
6 the allegations of child abuse or child neglect, the individual is not to be
7 named in the registry, and a charge of child abuse or child neglect shall not
8 be attached to such individual in an Idaho child protective act case, a crim-
9 inal or civil case, or a family law case.

10 (14) Except for those perpetrators with a level one designation, once
11 a perpetrator has been on the Idaho child protection central registry for
12 ten (10) years or once the alleged victim turns eighteen (18) years of age,
13 whichever occurs first, the department shall remove the perpetrator from the
14 registry and, within thirty (30) days of such removal, provide to the perpe-
15 trator a written letter via signature-certified mail stating that the perpe-
16 trator has been removed from the registry.

17 (15) If the department maintains an unsubstantiated record on the Idaho
18 child protection central registry or retains a substantiated record for more
19 than ten (10) years or once the alleged victim turns eighteen (18) years of
20 age, the assigned social worker shall be subject to the provisions of sec-
21 tion 56-1008, Idaho Code, and the alleged perpetrator shall be entitled to
22 two thousand eighty-three dollars (\$2,083) for each month that the record
23 remained on the registry.

24 (16) An individual listed in the Idaho child protection central reg-
25 istry may request to have his or her name expunged from the registry at no
26 cost to the individual by submitting a written request to the office of ad-
27 ministrative hearings accompanied by an affidavit sworn to by the individual
28 or his or her legal counsel. The affidavit shall state facts sufficient to
29 show that there is good cause for expungement and a hearing. The office of
30 administrative hearings shall respond to the individual's request via sig-
31 nature-certified mail within thirty (30) days of the date of the request. If
32 a hearing is deemed necessary, the hearing date shall not exceed forty-five
33 (45) days from the date of the office of administrative hearings' response.
34 Good cause under this subsection shall include:

35 (a) Evidence that a substantiated report of child abuse or child ne-
36 glect is inaccurate;

37 (b) Evidence that the individual in a substantiated report no longer
38 poses a risk and that no significant public purpose would be served by
39 continued listing of the individual as a perpetrator in the Idaho child
40 protection central registry; or

41 (c) The individual has been on the Idaho child protection central reg-
42 istry for more than ten (10) years or the alleged victim has reached
43 eighteen (18) years of age and the individual remains on the registry.

44 (17) Except for the affidavit required in subsection (16) of this sec-
45 tion, a written request for expungement submitted pursuant to this section
46 does not need to be in a specific form or format.

47 (18) At any time prior to a hearing for expungement requested under this
48 section, the department may administratively expunge an individual's name
49 from the Idaho child protection central registry. Upon such expungement,
50 the department shall provide a written letter via signature-certified mail

1 confirming that the expungement has been completed to the individual, the
2 office of administrative hearings, and assigned judges presiding over any
3 civil, family law, or criminal cases involving the individual, including any
4 child protective cases.

5 (19) A hearing of expungement from the Idaho child protection central
6 registry shall be conducted in accordance with the provisions of this sec-
7 tion. If a request for expungement is denied, the alleged perpetrator shall
8 have the right to appeal to a court of competent jurisdiction.

9 (20) No waiting period shall be required before an alleged perpetrator
10 may request expungement from the Idaho child protection central registry.

11 (21) An individual listed in the Idaho child protection central reg-
12 istry prior to the effective date of this act may request to have his or her
13 name expunged from the registry pursuant to the provisions of this section.

14 (22) The failure to provide procedural due process to an alleged per-
15 petrator pursuant to this section shall be a substantial failure of rights,
16 sufficient to support judicial review.

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