

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 955

BY CAYLER

AN ACT

1 RELATING TO MEDICAL KIDNAPPING; PROVIDING LEGISLATIVE FINDINGS; AMEND-  
2 ING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
3 16-1650, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING MEDICAL KIDNAP-  
4 PING AND TO PROVIDE THAT A PARENT OR GUARDIAN SHALL HAVE CERTAIN RIGHTS;  
5 AMENDING SECTION 18-4501, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE  
6 TECHNICAL CORRECTIONS; AMENDING CHAPTER 53, TITLE 39, IDAHO CODE, BY  
7 THE ADDITION OF A NEW SECTION 39-5313, IDAHO CODE, TO DEFINE A TERM AND  
8 TO PROVIDE FOR A PRIVATE RIGHT OF ACTION WHEN A VULNERABLE ADULT SUFFERS  
9 MEDICAL KIDNAPPING; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFEC-  
10 TIVE DATE.  
11

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

13 SECTION 1. LEGISLATIVE FINDINGS. The Legislature finds that:

14 (1) The Fifth and Fourteenth Amendments to the Constitution of the  
15 United States prohibit the government from depriving individuals of their  
16 liberty or property interests without due process of law.

17 (2) The interests and role of parents in the care, custody, and control  
18 of their children are deeply rooted in our nation's history and tradition and  
19 are also among the unalienable rights retained by the people under the Ninth  
20 Amendment to the Constitution of the United States.

21 (3) Idaho has established procedures for reporting on child abuse and  
22 child neglect under the Child Protective Act, Chapter 16, Title 16, Idaho  
23 Code.

24 (4) Idaho has established laws for protecting parental rights under  
25 Chapter 10, Title 32, Idaho Code.

26 (5) The Idaho Legislature wishes to ensure that Idaho's procedures for  
27 child and adult protection cases comport with constitutional due process re-  
28 quirements.

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

32 16-1650. MEDICAL KIDNAPPING -- PARENTAL RIGHTS. (1) As used in this  
33 section, "medical kidnapping" means the wrongful removal of a minor child  
34 under eighteen (18) years of age or a vulnerable adult from a parent or  
35 guardian by law enforcement, a social worker, or any other official when:

36 (a) A parent or guardian questions, denies, or declines a potential  
37 medical intervention for the child or vulnerable adult or chooses to  
38 seek a second opinion when there is cause for concern that the potential  
39 medical intervention would do harm to the child or vulnerable adult,  
40 including but not limited to an allergic reaction;

1 (b) A parent or guardian brings the child or vulnerable adult for medi-  
2 cal intervention at a health care facility and:

3 (i) A screening establishes that the child or vulnerable adult is  
4 not abused, abandoned, or neglected; and

5 (ii) The child or vulnerable adult is nevertheless removed from  
6 the parent's or guardian's custody by law enforcement, a social  
7 worker, or another official for invalid reasons, including but not  
8 limited to imminent harm or danger;

9 (c) A child or vulnerable adult has his or her belongings taken by a  
10 doctor, nurse, staff, volunteer, social worker, or any other official  
11 without parental or guardian consent, including but not limited to a  
12 service or therapy animal, clothes, books, games, cellular phone, wal-  
13 let, eye glasses, water, or food;

14 (d) A child or vulnerable adult is denied the freedom to continue care  
15 with his or her own medical physicians and specialists as established by  
16 the parent or guardian;

17 (e) A child abuse specialist visits with a child when it has previously  
18 been verified that no child abuse or neglect has occurred;

19 (f) A child or vulnerable adult is coerced by medical staff or a volun-  
20 teer into medical intervention;

21 (g) A doctor, nurse, medical staff, or volunteer takes photos, videos,  
22 lab work, or x-rays or conducts medical testing, care, or treatment  
23 of or on the child or vulnerable adult without consent of a parent or  
24 guardian;

25 (h) A child or vulnerable adult is forced by medical staff into a medi-  
26 cal intervention without consent of the parent or guardian;

27 (i) A child or vulnerable adult is unreasonably denied food, water, or  
28 other drinks, including supplemental food or drinks; or

29 (j) A child or vulnerable adult is ordered to have a medical interven-  
30 tion against parental or guardian consent when it is not required and  
31 may cause a medical condition or harm.

32 (2) A parent or guardian has the final decision in a child or vulner-  
33 able adult's medical care and treatment. A parent or guardian shall have a  
34 parental and constitutional right to seek medical treatment and make deci-  
35 sions for a child or vulnerable adult when the parent or guardian believes  
36 it is in the best interests of the child or vulnerable adult, including but  
37 not limited to accepting or denying medical intervention, imaging, medica-  
38 tion, or a second opinion. Such choices shall not be deemed child abuse or  
39 neglect and may not be disputed, discriminated against, reported, or inves-  
40 tigated by law enforcement, a social worker, or any other official. A child  
41 or vulnerable adult shall not be removed from a parent or guardian and placed  
42 in state care, a hospital, or any other medical treatment facility by law en-  
43 forcement, a social worker, or any other official unless there is a known in-  
44 stance of abuse or neglect and a criminal complaint has been filed in an in-  
45 vestigation. Treating medical doctors, nurses, specialists, staff, and any  
46 other medical facility employees or volunteers shall abide by a parent's or  
47 guardian's wishes. Any reports made by a reporting person must be substan-  
48 tiated by clear and convincing evidence that a parent or guardian has acted  
49 with negligence or malicious intent to harm the child.

1 (3) If a child or vulnerable adult has a medical reason, including but  
2 not limited to influenza, gastrointestinal issues, or a compromised immune  
3 system, such reason shall not be excluded as a valid cause or part of a cause  
4 for which a parent or guardian has brought a child or vulnerable adult in for  
5 medical treatment. In such cases, it shall not be assumed that abuse or ne-  
6 glect has occurred, that social services are required, or that an investiga-  
7 tion on the part of child protective services is required.

8 (4) When a parent or guardian brings a child in for medical care at a  
9 doctor's office, urgent care clinic, hospital, or other medical treatment  
10 facility and after a screening for child abuse or neglect has established  
11 there has not been abuse or neglect, then no further reporting or investi-  
12 gation by a doctor, nurse, staff, volunteer, social worker, law enforcement,  
13 or any other person or official shall be conducted.

14 (5) When a social worker, psychiatrist, or psychologist visits with a  
15 parent, guardian, child, or vulnerable adult and concludes that no further  
16 investigation is warranted, then no doctor, nurse, staff, social worker,  
17 law enforcement, or any other person or official shall conduct any further  
18 questioning regarding abuse or neglect and may provide only medical care or  
19 treatment.

20 (6) If a parent or guardian determines that such parent or guardian, the  
21 child, or the vulnerable adult is being mistreated by a doctor, nurse, staff,  
22 or volunteer at a medical facility, there is a right to leave the facility  
23 and seek further medical care at another facility on the person's own accord  
24 and without any involvement by law enforcement, a social worker, or any other  
25 official.

26 (7) If a doctor, nurse, staff, volunteer, social worker, or any other  
27 person at a medical facility contacts child protective services, adult pro-  
28 tective services, or law enforcement after no initial indication of abuse or  
29 neglect is found, such person may be subject to the provisions of sections  
30 16-1607, 18-5415, and 56-1008, Idaho Code, and the provisions of chapter 45,  
31 title 18, and chapter 10, title 32, Idaho Code, and any resulting child pro-  
32 tection case shall be terminated.

33 (8) Any person who commits medical kidnapping as described in this sec-  
34 tion shall be subject to:

35 (a) Loss of licensure as provided in the applicable provisions of title  
36 54, Idaho Code;

37 (b) The provisions of chapter 45, title 18, Idaho Code;

38 (c) Registration in the national child abuse and neglect data system  
39 and the Idaho child protection central registry as level one; and

40 (d) An investigation by child and family services or adult protective  
41 services if the individual has full or partial custody of a child or vul-  
42 nerable adult. The individual shall complete all requirements and rec-  
43 ommendations imposed as a result of such investigation, including but  
44 not limited to:

45 (i) A full psychological evaluation; and

46 (ii) Attendance at in-depth courses addressing parenting, nu-  
47 trition, special needs of individuals, and trauma. Such courses  
48 shall not be taught by a social worker, the Idaho department of  
49 health and welfare, or any state employee or state contractor.

1 (9) When medical kidnapping as defined in this section involves a  
 2 child, a parent or guardian may report such child as a missing child as de-  
 3 fined in section 18-4508, Idaho Code.

4 (10) Medical staff, including doctors, nurses, volunteers, or other  
 5 officials, shall not use inappropriate language or any discriminatory or  
 6 derogatory references to describe a child or vulnerable adult in their care.  
 7 A person who uses such language may be subject to a cause of action from a  
 8 parent or guardian.

9 (11) If a child or vulnerable adult is subject to medical kidnapping un-  
 10 der this section, the parent or guardian of the child or vulnerable adult  
 11 shall have a cause of action against the individuals involved in the medical  
 12 kidnapping for restitution and may recover damages and attorney's fees and  
 13 any other remedy provided by law.

14 SECTION 3. That Section 18-4501, Idaho Code, be, and the same is hereby  
 15 amended to read as follows:

16 18-4501. ~~KIDNAPING~~ KIDNAPPING DEFINED. ~~Every person who wilfully:~~  
 17 (1) A person is guilty of kidnapping if the person willfully:

18 ~~1-~~ (a) Seizes, confines, inveigles, or kidnaps another, with intent to  
 19 cause him or her, without authority of law, to be secretly confined or  
 20 imprisoned within this state, or to be sent out of this state, or in any  
 21 way held to service or kept or detained against his or her will; ~~or~~

22 ~~2-~~ (b) Leads, takes, entices away, or detains a child under ~~the age~~  
 23 ~~of sixteen (16) years~~ eighteen (18) years of age, with intent to keep  
 24 or conceal ~~it~~ the child from ~~its~~ a custodial parent, guardian, or other  
 25 person having lawful care or control thereof, or with intent to steal  
 26 any article ~~upon~~ on the person of the child; ~~or~~

27 ~~3-~~ (c) Abducts, entices, or by force or fraud unlawfully takes or car-  
 28 ries away another at or from a place without the state, or procures, ad-  
 29 vises, aids, or abets such an abduction, enticing, taking, or carrying  
 30 away, and afterwards sends, brings, has, or keeps such person, or causes  
 31 him or her to be kept or secreted within this state; ~~or~~

32 ~~4-~~ (d) Seizes, confines, inveigles, leads, takes, entices away, or  
 33 kidnaps another against his will to extort money, property, or any other  
 34 thing of value or obtain money, property, or reward or any other thing of  
 35 value for the return or disposition of such person ~~is guilty of kidnap-~~  
 36 ~~ing.~~

37 (2) "Kidnapping" shall be deemed to include "medical kidnapping" as de-  
 38 scribed in section 16-1650, Idaho Code.

39 SECTION 4. That Chapter 53, Title 39, Idaho Code, be, and the same is  
 40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 41 ignated as Section 39-5313, Idaho Code, and to read as follows:

42 39-5313. MEDICAL KIDNAPPING. (1) For purposes of this section, "med-  
 43 ical kidnapping" means the wrongful removal of a vulnerable adult from a  
 44 guardian by law enforcement, a social worker, or another official when:

45 (a) The guardian questions, denies, or declines a potential medical in-  
 46 tervention for the vulnerable adult or chooses to seek a second opinion

1 when there is cause for concern that the potential medical intervention  
2 would do harm to the vulnerable adult; or

3 (b) The guardian presents the vulnerable adult for medical interven-  
4 tion at a health care facility and:

5 (i) A screening establishes that the vulnerable adult is not  
6 abused, neglected, or exploited; and

7 (ii) The vulnerable adult is nevertheless removed from the  
8 guardian's custody by law enforcement, a social worker, or another  
9 official for invalid reasons, including but not limited to immi-  
10 nent harm or danger.

11 (2) If a vulnerable adult is subject to medical kidnapping under this  
12 section, the guardian of the vulnerable adult shall have a cause of action  
13 against the individuals involved in the medical kidnapping for restitution  
14 and may recover damages and attorney's fees and any other remedy provided by  
15 law.

16 SECTION 5. An emergency existing therefor, which emergency is hereby  
17 declared to exist, this act shall be in full force and effect on and after  
18 July 1, 2026.