

IN THE SENATE

SENATE BILL NO. 1314

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 56-1001,  
2 IDAHO CODE, TO REMOVE A CODE REFERENCE; AMENDING SECTION 56-1002, IDAHO  
3 CODE, TO REMOVE A PROVISION REGARDING SUBSTATE ADMINISTRATIVE REGIONS;  
4 REPEALING SECTION 56-1005, IDAHO CODE, RELATING TO THE BOARD OF HEALTH  
5 AND WELFARE; AMENDING SECTION 56-1006, IDAHO CODE, TO PROVIDE THAT  
6 CERTAIN REFERENCES TO THE BOARD OF HEALTH AND WELFARE SHALL MEAN THE  
7 DEPARTMENT OF HEALTH AND WELFARE AND TO PROVIDE THAT CERTAIN RULES SHALL  
8 REMAIN IN FULL FORCE AND EFFECT; AMENDING SECTION 59-904, IDAHO CODE,  
9 TO REVISE PROVISIONS REGARDING THE FILLING AND CONFIRMATION OF CERTAIN  
10 STATE OFFICES; AMENDING SECTION 39-3123, IDAHO CODE, TO REMOVE OBSOLETE  
11 LANGUAGE; REPEALING SECTION 39-3124, IDAHO CODE, RELATING TO THE IDAHO  
12 BEHAVIORAL HEALTH COOPERATIVE; AMENDING SECTION 39-3125, IDAHO CODE,  
13 TO REVISE PROVISIONS REGARDING THE STATE BEHAVIORAL HEALTH PLANNING  
14 COUNCIL AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 39-3127,  
15 IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 39-3129,  
16 IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 39-3131,  
17 IDAHO CODE, TO REMOVE A PROVISION REGARDING REGIONAL BEHAVIORAL HEALTH  
18 BOARDS; REPEALING SECTION 39-3132, IDAHO CODE, RELATING TO ESTABLISH-  
19 MENT OF REGIONAL BEHAVIORAL HEALTH BOARDS; REPEALING SECTION 39-3133,  
20 IDAHO CODE, RELATING TO THE EXECUTIVE COMMITTEE OF THE REGIONAL BEHAV-  
21 IORAL HEALTH BOARDS; REPEALING SECTION 39-3134, IDAHO CODE, RELATING TO  
22 MEMBERS, TERMS, AND APPOINTMENT OF REGIONAL BEHAVIORAL HEALTH BOARDS;  
23 REPEALING SECTION 39-3135, IDAHO CODE, RELATING TO POWERS AND DUTIES;  
24 AND DECLARING AN EMERGENCY.  
25

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

27 SECTION 1. That Section 56-1001, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 56-1001. DEFINITIONS. Whenever used or referred to in this chapter,  
30 unless a different meaning clearly appears from the context, the following  
31 terms shall have the following meanings:

32 (1) "Biological agent" means a bacterium, virus, fungus, protozoan,  
33 parasite, or other microorganism and associated toxins with the ability to  
34 adversely affect human health or cause death.

35 (2) "Board" means the board of health and welfare ~~as created in section~~  
36 ~~56-1005, Idaho Code.~~

37 (3) "Chemical agent" means any chemical that through its chemical ac-  
38 tion on life processes can cause death, temporary incapacitation, or perma-  
39 nent harm to humans or animals.

40 (4) "Department" means the department of health and welfare.

41 (5) "Director" means the director of the department of health and wel-  
42 fare.

1 (6) "Isolation" means the separation of a person diagnosed with an in-  
 2 fectious or a communicable disease, presenting medically unknown symptoms,  
 3 or contaminated from a chemical, nuclear, or biological agent for a period of  
 4 time limited to when the person is infectious, displaying medically unknown  
 5 symptoms, or contaminated.

6 (7) "Laboratory" means not only facilities for biological, serologi-  
 7 cal, biophysical, cytological and pathological tests but also facilities  
 8 for the chemical or other examination of materials from water, air or other  
 9 substances.

10 (8) "Medically unknown symptoms" means symptoms that are or could be  
 11 suggestive of an infectious or communicable disease and that do not suffi-  
 12 ciently reveal the structural or other specified pathology of an illness on  
 13 initial examination.

14 (9) "Person" means any individual, association, partnership, firm,  
 15 joint stock company, trust, estate, political subdivision, public or pri-  
 16 vate corporation, state or federal governmental department, agency or  
 17 instrumentality, or any other legal entity recognized by law as the subject  
 18 of rights and duties.

19 (10) "Public swimming pool" means an artificial structure, and its ap-  
 20 purtenances, that contains water more than two (2) feet deep that is used or  
 21 intended to be used for swimming or recreational bathing, and that is for the  
 22 use of any segment of the public pursuant to a general invitation but not an  
 23 invitation to a specific occasion or occasions. The term does not include  
 24 a swimming pool operated solely for and in conjunction with a hotel, motel  
 25 or other place of lodging, or a trailer park, apartment, condominium or any  
 26 other residential facility containing multiple dwellings.

27 (11) "Quarantine" means the separation of a person exposed to:

28 (a) An infectious or a communicable disease;

29 (b) Another person displaying medically unknown symptoms; or

30 (c) Another person exposed to contamination from a chemical, nuclear,  
 31 or biological agent;

32 under circumstances likely to result in the spread of the disease, symptoms,  
 33 or contaminant to the person who had such contact. The separation may last  
 34 only for a reasonable period of time sufficient to determine whether or not  
 35 the exposed person will become sick.

36 (12) "Restricted access" means limited or disallowed access to an area:

37 (a) That has been cordoned off;

38 (b) At which signs have been posted limiting or disallowing access; or

39 (c) To which entry or exit has in some other way been limited or blocked.

40 (13) "State" means the state of Idaho.

41 (14) "Substantive" means that which creates, defines or regulates the  
 42 rights of any person or implements, interprets or prescribes law or policy,  
 43 but does not include statements concerning only the internal management of  
 44 the department and not affecting private rights or procedures available to  
 45 the public.

46 SECTION 2. That Section 56-1002, Idaho Code, be, and the same is hereby  
 47 amended to read as follows:

48 56-1002. DEPARTMENT OF HEALTH AND WELFARE -- CREATION -- ~~ADMINISTRATIVE~~  
 49 ~~REGIONS~~. (1) There is created and established in the state government a

1 department of health and welfare which shall, for the purposes of section 20,  
 2 article IV of the constitution of the state of Idaho, be an executive depart-  
 3 ment of the state government. The executive and administrative power of this  
 4 department shall be vested in the director of the department who shall be ap-  
 5 pointed by and serve at the pleasure of the governor, with the advice and con-  
 6 sent of the senate.

7 (2) The department shall be organized into such administrative and gen-  
 8 eral services divisions as may be necessary in order to efficiently adminis-  
 9 ter the department. Each division shall be headed by a division administra-  
 10 tor who shall be appointed by and serve at the pleasure of the director with  
 11 the concurrence of the board. Any new bureau chief hired to head a bureau  
 12 shall be appointed by and serve at the pleasure of the director with the con-  
 13 currence of the board.

14 ~~(3) In order to provide more effective and economical access to the~~  
 15 ~~state health and social services by the people of Idaho, the governor is~~  
 16 ~~hereby authorized to establish substate administrative regions. In the~~  
 17 ~~designation of these regions specific consideration shall be given to the~~  
 18 ~~geographic and economic convenience of the citizens included therein. Each~~  
 19 ~~substate administrative region shall be headed by a regional director who~~  
 20 ~~shall be appointed by and serve at the pleasure of the director with the con-~~  
 21 ~~currence of the board.~~

22 SECTION 3. That Section [56-1005](#), Idaho Code, be, and the same is hereby  
 23 repealed.

24 SECTION 4. That Section 56-1006, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 56-1006. TITLE SUPERSEDED. Except with respect to environmental pro-  
 27 tection functions, wherever the words "board of health" or "board of health  
 28 and welfare" appear in the Idaho Code, they shall mean the ~~board~~ department  
 29 of health and welfare, and wherever the words "administrator of health"  
 30 appear in the Idaho Code, they shall mean the director of the department of  
 31 health and welfare, and wherever the words "department of health" appear  
 32 in the Idaho Code, they shall mean the department of health and welfare.  
 33 Notwithstanding any other provision of law to the contrary, all rulemaking  
 34 vested in the board of health and welfare shall now be vested in the depart-  
 35 ment. Nothing in this section shall be construed to invalidate or otherwise  
 36 require repromulgation of any existing rules promulgated by the board of  
 37 health and welfare. All existing rules promulgated by the board of health  
 38 and welfare shall continue in full force and effect as if adopted by the  
 39 department and shall remain in effect until amended or repealed by the de-  
 40 partment, rejected by the legislature, or otherwise changed pursuant to law.

41 SECTION 5. That Section 59-904, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

43 59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED. (a) All  
 44 vacancies in any state office, and in the supreme and district courts, unless  
 45 otherwise provided for by law, shall be filled by appointment by the gover-  
 46 nor. Appointments to fill vacancies pursuant to this section shall be made

1 as provided in subsections (b), (c), (d), (e), (f) and (g) of this section,  
2 subject to the limitations prescribed in those subsections.

3 (b) Nominations and appointments to fill vacancies occurring in the of-  
4 fice of lieutenant governor, state controller, state treasurer, superinten-  
5 dent of public instruction, attorney general and secretary of state shall be  
6 made by the governor, subject to the advice and consent of the senate, for  
7 the balance of the term of office to which the predecessor of the person ap-  
8 pointed was elected.

9 (c) Nominations and appointments to and vacancies in the following  
10 listed offices shall be made or filled by the governor subject to the advice  
11 and consent of the senate for the terms prescribed by law, or in case such  
12 terms are not prescribed by law, then to serve at the pleasure of the gover-  
13 nor:

14 Director of the department of administration,  
15 Director of the department of finance,  
16 Director of the department of insurance,  
17 Director, department of agriculture,  
18 Director of the department of water resources,  
19 Director of the Idaho state police,  
20 Director of the department of commerce,  
21 Director of the department of labor,  
22 Director of the department of environmental quality,  
23 Director of the department of juvenile corrections,  
24 Director of the department of health and welfare,  
25 Executive director of the commission of pardons and parole,  
26 The state historic preservation officer,  
27 The administrator of the division of human resources,  
28 Member of the state tax commission,  
29 Members of the board of regents of the university of Idaho and the state  
30 board of education,  
31 Members of the Idaho water resource board,  
32 Members of the state fish and game commission,  
33 Members of the Idaho transportation board,  
34 ~~Voting members of the state board of health and welfare,~~  
35 Members of the board of environmental quality,  
36 Members of the board of directors of state parks and recreation,  
37 Members of the board of correction,  
38 Members of the industrial commission,  
39 Members of the Idaho public utilities commission,  
40 Members of the Idaho personnel commission,  
41 Members of the board of directors of the Idaho state retirement system,  
42 Members of the board of directors of the state insurance fund,  
43 Members of the commission of pardons and parole.

44 (d) Appointments made by the state board of land commissioners to the  
45 office of director, department of lands, and appointments to fill vacancies  
46 occurring in those offices shall be submitted by the president of the state  
47 board of land commissioners to the senate for the advice and consent of the  
48 senate in accordance with the procedure prescribed in this section.

49 (e) Appointments made pursuant to this section while the senate is in  
50 session shall be submitted along with the letter of appointment to the sen-

1 ate forthwith for the advice and consent of that body. Appointments made  
2 pursuant to this section while the senate is not in session shall be submit-  
3 ted along with the letter of appointment to the senate pursuant to section  
4 67-803, Idaho Code. Should the senate adjourn without granting its consent  
5 to an appointment the appointment shall thereupon become void and a vacancy  
6 in the office to which the appointment was made shall exist, and the office  
7 shall be deemed vacant upon the date of adjournment. It is the duty of the ap-  
8 pointing authority to supply the senate with the letter of appointment. The  
9 appointee shall supply the senate with the documentation it requests.

10 All appointments made pursuant to subsection (c) of this section, ex-  
11 cept those appointments for which a term of office is fixed by law, shall ter-  
12minate at the expiration of any gubernatorial term. Appointments to fill the  
13 vacancies thus created by the expiration of the term of office of the gover-  
14nor shall be forthwith submitted to the senate for the advice and consent of  
15 that body, and when so submitted shall be as expeditiously considered as pos-  
16sible.

17 Upon receipt of an appointment along with the letter of appointment in  
18 the senate for the purpose of securing the advice and consent of the sen-  
19ate, the appointment shall be referred by the presiding officer to the appro-  
20priate committee of the senate for consideration and report prior to action  
21 thereon by the full senate.

22 (f) Excepting the appointments made pursuant to subsection (c) of this  
23 section, whenever an appointee's term has expired as prescribed by law,  
24 the governor or the authorized appointing authority must fill the position  
25 within twelve (12) months of the expiration of the term. However, an of-  
26fice will be vacant if the governor or the authorized appointing authority:  
27 (i) fails to timely appoint a qualified person at the earlier of the time  
28 required by law or required in this subsection; or (ii) fails to provide  
29 the senate with an appropriate letter or document of appointment by the  
30 thirty-sixth legislative day of the subsequent legislative session. All  
31 letters or documents of appointment must, as reasonably possible, accompany  
32 the additional documentation required by the senate. At the request of the  
33 secretary of the senate, the governor or the authorized appointing authority  
34 must provide the additional documentation.

35 (g) It is the intent of the legislature that the provisions of this sec-  
36tion as amended by this chapter shall not apply to appointments which have  
37 been made prior to the effective date of this chapter. It is the further in-  
38tent of the legislature that the provisions of this section shall apply to  
39 the offices listed in this section and to any office created by law or exec-  
40utive order which succeeds to the powers, duties, responsibilities and au-  
41thorities of any of the offices listed in subsections (c) and (d) of this sec-  
42tion.

43 SECTION 6. That Section 39-3123, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 39-3123. DESIGNATION OF STATE MENTAL HEALTH AUTHORITY AND STATE SUB-  
46STANCE USE DISORDER AUTHORITY. The Idaho department of health and welfare is  
47 hereby designated the state mental health authority and the state substance  
48 use disorder authority, hereinafter referred to as the state behavioral  
49 health authority. The state behavioral health authority is responsible

1 for overseeing the state of Idaho's behavioral health system of care. The  
2 department shall fulfill this role through a collaborative process, taking  
3 into consideration and incorporating whenever reasonably possible the rec-  
4 ommendations and evaluations of the state behavioral health planning coun-  
5 cil ~~and the regional behavioral health boards~~ in all statewide efforts to  
6 expand, improve, modify or transform the behavioral health service delivery  
7 system of the state. The provisions of this section shall not prohibit ap-  
8 propriations to executive agencies or the judiciary to fund community-based  
9 behavioral health treatment within their target population. The behavioral  
10 health authority shall report utilization, performance, outcome and other  
11 quality assurance data to the state behavioral health planning council ~~and~~  
12 ~~the regional behavioral health board~~ on an annual basis.

13 SECTION 7. That Section [39-3124](#), Idaho Code, be, and the same is hereby  
14 repealed.

15 SECTION 8. That Section 39-3125, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 39-3125. STATE BEHAVIORAL HEALTH PLANNING COUNCIL. (1) A state be-  
18 havioral health planning council, hereinafter referred to as the planning  
19 council, shall be established to serve as an advocate for children and adults  
20 with behavioral health disorders; to advise the state behavioral health  
21 authority on issues of concern, on policies and on programs and to provide  
22 guidance to the state behavioral health authority in the development and  
23 implementation of the state behavioral health systems plan; to monitor and  
24 evaluate the allocation and adequacy of behavioral health services within  
25 the state on an ongoing basis; to monitor and evaluate the effectiveness of  
26 state laws that address behavioral health services; to ensure that individ-  
27 uals with behavioral health disorders have access to prevention, treatment  
28 and rehabilitation services; to serve as a vehicle for policy and program  
29 development; and to present to the governor, the judiciary and the legis-  
30 lature by June 30 of each year a report on the council's activities and an  
31 evaluation of the current effectiveness of the behavioral health services  
32 provided directly or indirectly by the state to adults and children. The  
33 planning council shall establish readiness and performance criteria for the  
34 regional boards to accept and maintain responsibility for family support and  
35 recovery support services. The planning council shall evaluate regional  
36 board adherence to the readiness criteria and make a determination if the  
37 regional board has demonstrated readiness to accept responsibility over the  
38 family support and recovery support services for the region. ~~The planning~~  
39 ~~council shall report to the behavioral health authority if it determines a~~  
40 ~~regional board is not fulfilling its responsibility to administer the fam-~~  
41 ~~ily support and recovery support services for the region and recommend the~~  
42 ~~regional behavioral health centers assume responsibility over the services~~  
43 ~~until the board demonstrates it is prepared to regain the responsibility.~~

44 (2) The planning council shall be appointed by the governor and be  
45 comprised of no more than fifty percent (50%) state employees or providers  
46 of behavioral health services. Membership shall also reflect to the extent  
47 possible the collective demographic characteristics of Idaho's citizens.  
48 The planning council membership shall include representation from con-

1 sumers; families of adults with serious mental illness or substance use  
 2 disorders; behavioral health advocates; prevention specialists; principal  
 3 state agencies and the judicial branch with respect to behavioral health,  
 4 education, vocational rehabilitation, adult correction, juvenile justice  
 5 and law enforcement, title XIX of the social security act and other enti-  
 6 tlement programs; and public and private entities concerned with the need,  
 7 planning, operation, funding and use of mental health services or substance  
 8 use disorders, and related support services; ~~and the regional behavioral~~  
 9 ~~health board in each department of health and welfare region as provided for~~  
 10 ~~in section 39-3134, Idaho Code.~~ The planning council may include members of  
 11 the legislature.

12 (3) The planning council members will serve a term of two (2) years or  
 13 at the pleasure of the governor, provided however, that of the members first  
 14 appointed, one-half (1/2) of the appointments shall be for a term of one (1)  
 15 year and one-half (1/2) of the appointments shall be for a term of two (2)  
 16 years. The governor will appoint a chair and a vice-chair whose terms will be  
 17 two (2) years.

18 (4) The council may establish subcommittees at its discretion.

19 SECTION 9. That Section 39-3127, Idaho Code, be, and the same is hereby  
 20 amended to read as follows:

21 39-3127. COORDINATION OF SERVICES BETWEEN REGIONS AND STATE. The di-  
 22 rector of the department of health and welfare shall coordinate services  
 23 between the regional behavioral health centers, ~~regional behavioral health~~  
 24 ~~boards~~ and the state psychiatric hospitals.

25 SECTION 10. That Section 39-3129, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 39-3129. DIVISION ADMINISTRATOR FOR REGIONAL BEHAVIORAL HEALTH CEN-  
 28 TERS -- DUTIES. The director of the department of health and welfare shall  
 29 appoint a division administrator to manage the regional behavioral health  
 30 centers and shall supervise its program; shall prescribe uniform standards  
 31 of treatment, services and care provided by the regional behavioral health  
 32 centers ~~and regional behavioral health boards~~; shall set the professional  
 33 qualifications for staff positions; and make such other policy as are neces-  
 34 sary and proper to carry out the purposes and intent of this chapter.

35 SECTION 11. That Section 39-3131, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 39-3131. BEHAVIORAL HEALTH SERVICES TO BE OFFERED. The regional be-  
 38 havioral health center shall provide or arrange for the delivery of services  
 39 that, combined with community family support and recovery support services  
 40 provided through the regional behavioral health boards, medicaid and ser-  
 41 vices delivered through a private provider network, will lead to the estab-  
 42 lishment of a comprehensive regional behavioral health system of care that  
 43 incorporates patient choice and family involvement to the extent reasonably  
 44 practicable and medically and professionally appropriate. The regional be-

1 havioral health center shall provide or arrange for the delivery of the fol-  
2 lowing services:

3 (1) Treatment services for individuals who do not have other benefits  
4 available to meet their behavioral health needs as resources allow includ-  
5 ing, but not limited to, psychiatric services, medication management, re-  
6 habilitative and community-based services, outpatient and intensive outpa-  
7 tient services, assertive community treatment, case management and residen-  
8 tial care;

9 ~~(2) Community family support and recovery support services as defined~~  
10 ~~in section 39-3135(7), Idaho Code, until the regional behavioral health~~  
11 ~~board can meet the initial readiness criteria and voluntarily accepts re-~~  
12 ~~sponsibility for these services or if the regional behavioral health board~~  
13 ~~fails to sustain criteria to maintain responsibility for these services;~~

14 ~~(3) (2) Evaluation and intervention for individuals experiencing a be-~~  
15 ~~havioral health emergency;~~

16 ~~(4) (3) Hospital precare and postcare services, in cooperation with~~  
17 ~~state and community psychiatric hospitals, for individuals who have been~~  
18 ~~committed to the custody of the director of health and welfare pursuant~~  
19 ~~to sections 18-212 and 66-329, Idaho Code, or who are under an involuntary~~  
20 ~~treatment order pursuant to chapter 24, title 16, Idaho Code;~~

21 ~~(5) (4) Evaluation and securing mental health treatment services as~~  
22 ~~ordered by a court for individuals pursuant to section 19-2524, 20-511A or~~  
23 ~~20-519B, Idaho Code; and~~

24 ~~(6) (5) Evaluation and securing treatment services for individuals who~~  
25 ~~are accepted into mental health courts.~~

26 SECTION 12. That Section [39-3132](#), Idaho Code, be, and the same is hereby  
27 repealed.

28 SECTION 13. That Section [39-3133](#), Idaho Code, be, and the same is hereby  
29 repealed.

30 SECTION 14. That Section [39-3134](#), Idaho Code, be, and the same is hereby  
31 repealed.

32 SECTION 15. That Section [39-3135](#), Idaho Code, be, and the same is hereby  
33 repealed.

34 SECTION 16. An emergency existing therefor, which emergency is hereby  
35 declared to exist, this act shall be in full force and effect on and after its  
36 passage and approval.