

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 455, As Amended

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO CHILD PROTECTION; AMENDING SECTION 16-1605, IDAHO CODE, TO RE-  
2 VISE PROVISIONS REGARDING REPORTING OF CHILD ABUSE, ABANDONMENT, OR  
3 NEGLECT AND TO PROVIDE REPORTING REQUIREMENTS FOR CERTAIN PERSONS; AND  
4 AMENDING SECTION 16-1606, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
5 IMMUNITY FOR THOSE WHO REPORT CHILD ABUSE, ABANDONMENT, OR NEGLECT.  
6

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

8 SECTION 1. That Section 16-1605, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 16-1605. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT. (1) Any physi-  
11 cian, ~~resident on a hospital staff, intern, nurse, other health care worker,~~  
12 ~~coroner, school teacher, principal or other school personnel,~~ day care per-  
13 ~~sonnel, professional child care worker who is at least eighteen (18) years~~  
14 ~~of age, social worker, or other person counselor, therapist, other mental~~  
15 ~~health professional, substance abuse counselor, law enforcement officer, or~~  
16 ~~probation or parole officer~~ having reason to believe that a child under the  
17 age of eighteen (18) years has been abused, abandoned or neglected or who ob-  
18 serves the child being subjected to conditions or circumstances that would  
19 reasonably result in abuse, abandonment or neglect shall report or cause to  
20 be reported within twenty-four (24) hours such conditions or circumstances  
21 to the proper law enforcement agency or the department. The department shall  
22 be informed by law enforcement of any report made directly to it. If the  
23 department knows or has reason to know that an adult in the home has been  
24 convicted of lewd and lascivious conduct or felony injury to a child in the  
25 past or that the child has been removed from the home for circumstances that  
26 resulted in a conviction for lewd and lascivious conduct or felony injury  
27 to a child, then the department shall investigate. When the attendance of  
28 a physician, resident, intern, nurse, day care worker, or social worker is  
29 pursuant to the performance of services as a member of the staff of a hospital  
30 or similar institution, he shall notify the person in charge of the institu-  
31 tion or his designated delegate who shall make the necessary reports.

32 (2) Any resident of this state not listed in subsection (1) of this sec-  
33 tion having reason to believe that a child under the age of eighteen (18)  
34 years has been abused, abandoned, or neglected or who observes the child be-  
35 ing subjected to conditions or circumstances that would reasonably result in  
36 abuse, abandonment, or neglect shall report or cause to be reported within  
37 twenty-four (24) hours such conditions or circumstances to the proper law  
38 enforcement agency or the department. A resident of this state who fails to  
39 report pursuant to this subsection shall not be subject to the penalty pro-  
40 vided for in subsection (5) of this section.

41 (3) For purposes of subsection (34) of this section, the term "duly  
42 ordained minister of religion" means a person who has been ordained or set

1 apart, in accordance with the ceremonial, ritual or discipline of a church  
2 or religious organization which has been established on the basis of a  
3 community of religious faith, belief, doctrines and practices, to hear con-  
4 fessions and confidential communications in accordance with the bona fide  
5 doctrines or discipline of that church or religious organization.

6 (34) The notification requirements of subsections (1) and (2) of this  
7 section do not apply to a duly ordained minister of religion, with regard to  
8 any confession or confidential communication made to him in his ecclesiasti-  
9 cal capacity in the course of discipline enjoined by the church to which he  
10 belongs if:

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

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

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

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

22 SECTION 2. That Section 16-1606, Idaho Code, be, and the same is hereby  
23 amended to read as follows:

24 16-1606. IMMUNITY. Any person who has reason to believe that a child  
25 has been abused, abandoned or neglected and, acting upon that belief, makes  
26 a report of abuse, abandonment or neglect ~~as required in section 16-1605,~~  
27 ~~Idaho Code,~~ shall have immunity from any liability, civil or criminal, that  
28 might otherwise be incurred or imposed. Any such participant shall have the  
29 same immunity with respect to participation in any such judicial proceeding  
30 resulting from such report. Any person who reports in bad faith or with mal-  
31 ice shall not be protected by this section. Any privilege between husband  
32 and wife, or between any professional person except the lawyer-client privi-  
33 lege, including but not limited to physicians, counselors, hospitals, clin-  
34 ics, day care centers and schools and their clients, shall not be grounds for  
35 excluding evidence at any proceeding regarding the abuse, abandonment or ne-  
36 glect of the child or the cause thereof.