

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 191

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO DOMESTIC RELATIONS; AMENDING TITLE 32, IDAHO CODE, BY THE AD-  
2 DITION OF A NEW CHAPTER 18, TITLE 32, IDAHO CODE, TO PROVIDE FOR A  
3 DELEGATION OF PARENTAL POWERS, TO PROVIDE FOR A RETENTION OF PARENTAL  
4 RIGHTS, TO PROVIDE THAT A TEMPORARY CAREGIVER MAY NOT RECEIVE FINANCIAL  
5 PAYMENTS EXCEPT FOR THE REIMBURSEMENT OF ACTUAL EXPENSES, TO DEFINE A  
6 TERM AND TO PROVIDE FOR A CERTAIN DISCLOSURE, AND TO PROVIDE REQUIRE-  
7 MENTS FOR TEMPORARY CARE ASSISTANCE PROGRAMS.  
8

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

10 SECTION 1. That Title 32, Idaho Code, be, and the same is hereby amended  
11 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
12 ter 18, Title 32, Idaho Code, and to read as follows:

13 CHAPTER 18

14 TEMPORARY CAREGIVERS AND TEMPORARY CARE ASSISTANCE PROGRAMS

15 32-1801. DELEGATION OF PARENTAL POWERS. (1) A parent or legal guardian  
16 of a child, by a properly executed power of attorney, may temporarily dele-  
17 gate to another person, named in the instrument as the temporary caregiver,  
18 any of the traditional parental rights and responsibilities regarding care  
19 and custody of the child except for:

20 (a) Consent for the child to marry;

21 (b) Consent for an abortion or inducement of an abortion to be performed  
22 on or for the child; or

23 (c) The termination of parental rights to the child.

24 (2) A temporary caregiver properly appointed pursuant to this chapter  
25 and in compliance with this chapter is not subject to any statutes regarding  
26 the licensing or regulation of foster care homes or other child care facility  
27 licensing statutes, and the appointment of a temporary caregiver pursuant to  
28 this chapter does not constitute an out-of-home child placement.

29 (3) The child or children subject to the power of attorney established  
30 pursuant to this section will not be considered placed in foster care, and  
31 the parties involved in the power of attorney established pursuant to this  
32 section are not subject to any requirements, monitoring, or other regulation  
33 for foster care or community care solely because of the execution of an in-  
34 strument authorized pursuant to this section.

35 32-1802. RETENTION OF PARENTAL RIGHTS. (1) A temporary delegation of  
36 rights and responsibilities under this chapter does not:

37 (a) Operate to change or modify any parental or legal rights, obliga-  
38 tions, or authority established by an existing court order;

1 (b) Deprive the parent or legal custodian of any parental or legal  
2 rights, obligations, or authority regarding the custody, visitation,  
3 or support of the child; or

4 (c) Constitute child abuse, neglect, or placement in foster care.

5 (2) The parent or legal custodian of the child has the authority to re-  
6 voke or withdraw the power of attorney authorized by section 32-1801, Idaho  
7 Code, at any time.

8 (3) Upon the termination, withdrawal, or revocation of the power  
9 of attorney established by section 32-1801, Idaho Code, the child will  
10 be returned to the custody of the parent or legal guardian no later than  
11 forty-eight (48) hours after such termination, withdrawal, or revocation.

12 32-1803. REIMBURSEMENT OF TEMPORARY CAREGIVER. A temporary caregiver  
13 appointed pursuant to section 32-1801, Idaho Code, shall not receive finan-  
14 cial payment other than reimbursement for actual expenses arising from the  
15 care of the child.

16 32-1804. DISCLOSURE OF TEMPORARY CARE ASSISTANCE PROGRAM. (1) For  
17 purposes of this section and section 32-1805, Idaho Code, "temporary care  
18 assistance program" means a program operated by an organization that assists  
19 a parent or guardian with recruiting or identifying an appropriate and safe  
20 temporary caregiver to whom the parent or guardian can choose to delegate  
21 temporary care responsibility of a minor through a power of attorney. A  
22 temporary care assistance program shall comply with nationally recognized  
23 standards, such as those found in the title IV-E prevention services clear-  
24 inghouse.

25 (2) During a child protection investigation that does not result in an  
26 out-of-home placement due to abuse of a child, the child protective inves-  
27 tigator is authorized and encouraged to provide information to the parent or  
28 legal guardian about temporary care assistance programs. The child protec-  
29 tive investigator is authorized to exercise discretion in recommending pro-  
30 grams, organizations, and resources to the parent or legal guardian.

31 32-1805. TEMPORARY CARE ASSISTANCE PROGRAM REQUIREMENTS. (1) A tempo-  
32 rary care assistance program shall check against the state's sex offender  
33 registry operated by the Idaho state police and against the national sex of-  
34 fender public website operated by the United States department of justice  
35 that checks names and addresses in the registries before allowing someone to  
36 become a temporary caregiver within the program's service. The process must  
37 include a check against the Idaho child protection central registry operated  
38 by the Idaho department of health and welfare.

39 (2) The temporary caregiver's residence must be inspected annually by  
40 the affiliated temporary care assistance program.