

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 170

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CHILD PROTECTION; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY
THE ADDITION OF A NEW SECTION 16-1648, IDAHO CODE, TO ESTABLISH PROVI-
SIONS REGARDING A CERTAIN NOTIFICATION AND WAIVER.

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

SECTION 1. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1648, Idaho Code, and to read as follows:

16-1648. NOTIFICATION OF RIGHTS. (1) When the department, in accordance with this chapter, commences an investigation after having received information that a child may be abused, neglected, or abandoned, and in the course of such investigation contacts, directly and in person, the parents or any person or persons maintaining the custody and care of the child, then the department shall notify such parents or persons that they have the right to remain silent or to consult with an attorney and to have an attorney present during questioning. Such notification shall be made in writing upon the first such contact with the parents or concerned persons. The department shall also, upon the first such contact, advise in writing the parents or concerned persons being investigated that, unless the department has a warrant issued by a court of competent jurisdiction, they have the right to refuse entry to their home or other real property and they may refuse the questioning of any minor children in their home or on their property.

(2) A parent or concerned person may waive effectuation of these rights, provided that the waiver is made voluntarily, knowingly, and intelligently. If, however, the parent or concerned person indicates in any manner and at any stage of the process that the parent or person wishes to consult with an attorney before speaking, the department may not question such parent or person. If a parent or concerned person is alone and indicates in any manner that the parent or person does not wish to be questioned, the department may not question the parent or person.

(3) Notifications required by this section to be made in writing shall be made on a form that includes the following:

"Idaho Department of Health and Welfare
(Office Address)
(Office Telephone Number)

Dear Sir or Madam:

Be advised that you are the subject of an investigation by the Idaho Department of Health and Welfare for potential child abuse, abandonment, or neglect. This is not an indication

1 that you are the subject of a criminal investigation. Now and
2 throughout this investigation, you have certain rights.

3 1. You have the right to remain silent and to refuse to answer
4 questions.

5 2. You have the right to refuse entry to your home or other
6 premises if there is no warrant of a court.

7 3. You have the right to consult with an attorney at your own
8 expense and to have that attorney present during questioning.

9 4. You have the right to refuse the questioning of minor chil-
10 dren in your home or on your property if there is no warrant to
11 examine your children.

12 If you have waived all or some of your rights as explained
13 and change your mind during the investigation, please inform
14 the department immediately of your desire to exercise your
15 rights."