

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 4

BY STATE AFFAIRS COMMITTEE

AN ACT

1  
2 RELATING TO DOMESTIC RELATIONS; AMENDING SECTION 32-1013, IDAHO CODE,  
3 TO PROVIDE THAT AN EMERGENCY, EXTREME EMERGENCY, EXTREME PERIL, OR  
4 DISASTER DECLARATION OR ORDER SHALL NOT BE CONSIDERED A COMPELLING GOV-  
5 ERNMENTAL INTEREST SUFFICIENT TO RESTRICT PARENTAL RIGHTS AND TO MAKE A  
6 TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

8 SECTION 1. That Section 32-1013, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 32-1013. INTERFERENCE WITH FUNDAMENTAL PARENTAL RIGHTS RE-  
11 STRICTED. (1) Neither the state of Idaho, nor any political subdivision  
12 thereof, may violate a parent's fundamental and established rights pro-  
13 tected by this act, and any restriction of or interference with such rights  
14 shall not be upheld unless it demonstrates by clear and convincing evidence  
15 that the restriction or interference is both:

16 (a) Essential to further a compelling governmental interest, provided  
17 that at no time shall an emergency, extreme emergency, extreme peril, or  
18 disaster declaration or order be considered a compelling governmental  
19 interest sufficient to justify forced medical action, forced removal of  
20 a child from the home, or any other action that could abridge parental  
21 rights as described in this chapter; and

22 (b) The least restrictive means available for the furthering of that  
23 compelling governmental interest.

24 (2) The foregoing principles apply to any interference whether now ex-  
25 isting or hereafter enacted.

26 (3) Nothing in this act shall be construed as invalidating the provi-  
27 sions of the child protective act in chapter 16, title 16, Idaho Code, or  
28 shall modify the burden of proof at any stage of proceedings under the child  
29 protective act.

30 (4) When a parent's fundamental rights protected by this act are vio-  
31 lated, a parent may assert that violation as a claim or defense in a judicial  
32 proceeding and may obtain appropriate relief against the governmental en-  
33 tity.

34 (5) If a parent prevails in a civil action against the state, or a polit-  
35 ical subdivision thereof, as provided in subsection (4) of this section, the  
36 parent is entitled to reasonable attorney's fees and costs.

37 SECTION 2. An emergency existing therefor, which emergency is hereby  
38 declared to exist, this act shall be in full force and effect on and after its  
39 passage and approval.