

IN THE SENATE

SENATE BILL NO. 1328, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1602, IDAHO CODE,
2 TO DEFINE TERMS; AMENDING SECTION 16-1615, IDAHO CODE, TO REVISE CRITE-
3 RIA USED BY A COURT IN A SHELTER CARE HEARING; AMENDING SECTION 16-1619,
4 IDAHO CODE, TO REQUIRE A COURT TO MAKE CERTAIN INQUIRIES IN AN ADJUDI-
5 CATORY HEARING AND TO REQUIRE THE DEPARTMENT TO MAKE A CERTAIN REPORT
6 TO A COURT FOR CERTAIN CHILDREN; AMENDING SECTION 16-1620, IDAHO CODE,
7 TO REQUIRE A PERMANENCY HEARING FOR A CERTAIN TIME PERIOD, TO PROVIDE
8 FOR CERTAIN PERSONS IN A PERMANENCY PLAN, TO REVISE REQUIREMENTS FOR
9 A PERMANENCY PLAN, TO PROVIDE REQUIREMENTS FOR A PERMANENCY HEARING
10 AND TO PROVIDE FOR CERTAIN YOUTH WITH CERTAIN PERMANENCY GOALS; AMEND-
11 ING SECTION 16-1621, IDAHO CODE, TO REQUIRE A COURT TO MAKE CERTAIN
12 INQUIRIES IN A CASE PLAN HEARING, TO REVISE TERMINOLOGY AND TO REVISE
13 PROVISIONS REGARDING THE REQUIREMENTS OF A CASE PLAN; AMENDING SECTION
14 16-1622, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REQUIREMENTS
15 FOR A REVIEW HEARING, TO PROVIDE FOR A STATUS HEARING, TO REVISE PROVI-
16 SIONS REGARDING THE REQUIREMENTS FOR A PERMANENCY PLAN AND HEARING AND
17 TO PROVIDE FOR A REVIEW OR PERMANENCY HEARING FOLLOWING THE FILING OF A
18 TRANSITION PLAN; AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE FOR
19 A REDISPOSITION HEARING IN CERTAIN INSTANCES AND TO REVISE A PROVISION
20 REGARDING CASE PLAN HEARINGS; AND AMENDING SECTION 16-2002, IDAHO CODE,
21 TO PROVIDE A CORRECT CODE REFERENCE.
22

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

24 SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 16-1602. DEFINITIONS. For purposes of this chapter:

27 (1) "Abused" means any case in which a child has been the victim of:

28 (a) Conduct or omission resulting in skin bruising, bleeding, malnu-
29 trition, burns, fracture of any bone, subdural hematoma, soft tissue
30 swelling, failure to thrive or death, and such condition or death is not
31 justifiably explained, or where the history given concerning such con-
32 dition or death is at variance with the degree or type of such condition
33 or death, or the circumstances indicate that such condition or death may
34 not be the product of an accidental occurrence; or

35 (b) Sexual conduct, including rape, molestation, incest, prostitu-
36 tion, obscene or pornographic photographing, filming or depiction for
37 commercial purposes, or other similar forms of sexual exploitation
38 harming or threatening the child's health or welfare or mental injury to
39 the child.

40 (2) "Abandoned" means the failure of the parent to maintain a normal
41 parental relationship with his child including, but not limited to, reason-
42 able support or regular personal contact. Failure to maintain this rela-

1 tionship without just cause for a period of one (1) year shall constitute
2 prima facie evidence of abandonment.

3 (3) "Adaptive equipment" means any piece of equipment or any item that
4 is used to increase, maintain or improve the parenting capabilities of a par-
5 ent with a disability.

6 (4) "Adjudicatory hearing" means a hearing to determine:

7 (a) Whether the child comes under the jurisdiction of the court pur-
8 suant to the provisions of this chapter;

9 (b) Whether continuation of the child in the home would be contrary to
10 the child's welfare and whether the best interest of the child requires
11 protective supervision or vesting legal custody of the child in an au-
12 thorized agency.

13 (5) "Age of developmentally appropriate" means:

14 (a) Activities that are generally accepted as suitable for children of
15 the same chronological age or level of maturity or that are determined
16 to be developmentally appropriate for a child, based on the development
17 of cognitive, emotional, physical and behavioral capacities that are
18 typical for an age or age group; and

19 (b) In the case of a specific child, activities or items that are suit-
20 able for the child based on the developmental stages attained by the
21 child with respect to the cognitive, emotional, physical and behavioral
22 capacities of the child.

23 (6) "Aggravated circumstances" includes, but is not limited to:

24 (a) Circumstances in which the parent has engaged in any of the follow-
25 ing:

26 (i) Abandonment, chronic abuse or chronic neglect of the child.
27 Chronic neglect or chronic abuse of a child shall consist of abuse
28 or neglect that is so extreme or repetitious as to indicate that
29 return of the child to the home would result in unacceptable risk
30 to the health and welfare of the child.

31 (ii) Sexual abuse against a child of the parent. Sexual abuse, for
32 the purposes of this section, includes any conduct described in
33 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,
34 18-6108 or 18-6608, Idaho Code.

35 (iii) Torture of a child; any conduct described in the code sec-
36 tions listed in section 18-8303(1), Idaho Code; battery or an
37 injury to a child that results in serious or great bodily in-
38 jury to a child; voluntary manslaughter of a child, or aiding or
39 abetting such voluntary manslaughter, soliciting such voluntary
40 manslaughter or attempting or conspiring to commit such voluntary
41 manslaughter;

42 (b) The parent has committed murder, aided or abetted a murder, so-
43 licited a murder or attempted or conspired to commit murder; or

44 (c) The parental rights of the parent to another child have been termi-
45 nated involuntarily.

46 (67) "Authorized agency" means the department, a local agency, a per-
47 son, an organization, corporation, benevolent society or association li-
48 censed or approved by the department or the court to receive children for
49 control, care, maintenance or placement.

1 (8) "Caregiver" means a foster parent with whom a child in foster care
 2 has been placed or a designated official for a child care institution in
 3 which a child in foster care has been placed.

4 (79) "Case plan hearing" means a hearing to approve, modify or reject
 5 the case plan as provided in section 16-1621, Idaho Code.

6 (~~8~~10) "Child" means an individual who is under the age of eighteen (18)
 7 years.

8 (~~9~~11) "Child advocacy center" or "CAC" means an organization that
 9 adheres to national best practice standards established by the national
 10 membership and accrediting body for children's advocacy centers and that
 11 promotes a comprehensive and coordinated multidisciplinary team response to
 12 allegations of child abuse by maintaining a child-friendly facility at which
 13 appropriate services are provided. These services may include forensic in-
 14 terviews, forensic medical examinations, mental health services and other
 15 related victim services.

16 (102) "Circumstances of the child" includes, but is not limited to, the
 17 joint legal custody or joint physical custody of the child.

18 (113) "Commit" means to transfer legal and physical custody.

19 (124) "Concurrent planning" means a planning model that prepares for
 20 and implements different outcomes at the same time.

21 (135) "Court" means district court or magistrate's division thereof, or
 22 if the context requires, a magistrate or judge thereof.

23 (146) "Custodian" means a person, other than a parent or legal guardian,
 24 to whom legal or joint legal custody of the child has been given by court or-
 25 der.

26 (157) "Department" means the department of health and welfare and its
 27 authorized representatives.

28 (168) "Disability" means, with respect to an individual, any mental or
 29 physical impairment which substantially limits one (1) or more major life
 30 activity of the individual including, but not limited to, self-care, man-
 31 ual tasks, walking, seeing, hearing, speaking, learning or working, or a
 32 record of such an impairment, or being regarded as having such an impairment.
 33 Disability shall not include transvestism, transsexualism, pedophilia,
 34 exhibitionism, voyeurism, other sexual behavior disorders, or substance use
 35 disorders, compulsive gambling, kleptomania or pyromania. Sexual prefer-
 36 ence or orientation is not considered an impairment or disability. Whether
 37 an impairment substantially limits a major life activity shall be determined
 38 without consideration of the effect of corrective or mitigating measures
 39 used to reduce the effects of the impairment.

40 (179) "Family or household member" shall have the same meaning as in
 41 section 39-6303(6), Idaho Code.

42 (~~18~~20) "Foster care" means twenty-four (24) hour substitute parental
 43 care for children placed away from their parents or guardians by persons who
 44 may or may not be related to the children and for whom the state agency has
 45 placement and care responsibility.

46 (21) "Foster parent" means a person or persons licensed to provide fos-
 47 ter care.

48 (~~19~~22) "Grant administrator" means the supreme court or any organiza-
 49 tion or agency as may be designated by the supreme court in accordance with
 50 such procedures as may be adopted by the supreme court. The grant adminis-

1 trator shall administer funds from the guardian ad litem account in accor-
2 dance with the provisions of this chapter.

3 (203) "Guardian ad litem" means a person appointed by the court pursuant
4 to a guardian ad litem volunteer program to act as special advocate for a
5 child under this chapter.

6 (214) "Guardian ad litem coordinator" means a person or entity receiv-
7 ing moneys from the grant administrator for the purpose of carrying out any
8 of the duties set forth in section 16-1632, Idaho Code.

9 (225) "Guardian ad litem program" means the program to recruit, train
10 and coordinate volunteer persons to serve as guardians ad litem for abused,
11 neglected or abandoned children.

12 (236) "Homeless," as used in this chapter, shall mean that the child is
13 without adequate shelter or other living facilities, and the lack of such
14 shelter or other living facilities poses a threat to the health, safety or
15 well-being of the child.

16 (247) "Idaho network of children's advocacy centers" means an organ-
17 ization that provides education and technical assistance to child advocacy
18 centers and to interagency multidisciplinary teams developed pursuant to
19 section 16-1617, Idaho Code.

20 (258) "Law enforcement agency" means a city police department, the
21 prosecuting attorney of any county, state law enforcement officers, or the
22 office of a sheriff of any county.

23 (269) "Legal custody" means a relationship created by court order,
24 which vests in a custodian the following rights and responsibilities:

25 (a) To have physical custody and control of the child, and to determine
26 where and with whom the child shall live.

27 (b) To supply the child with food, clothing, shelter and incidental ne-
28 cessities.

29 (c) To provide the child with care, education and discipline.

30 (d) To authorize ordinary medical, dental, psychiatric, psychologi-
31 cal, or other remedial care and treatment for the child, including care
32 and treatment in a facility with a program of services for children; and
33 to authorize surgery if the surgery is deemed by two (2) physicians li-
34 censed to practice in this state to be necessary for the child.

35 (e) Where the parents share legal custody, the custodian may be vested
36 with the custody previously held by either or both parents.

37 (2730) "Mental injury" means a substantial impairment in the intellec-
38 tual or psychological ability of a child to function within a normal range of
39 performance and/or behavior, for short or long terms.

40 (2831) "Neglected" means a child:

41 (a) Who is without proper parental care and control, or subsistence,
42 medical or other care or control necessary for his well-being because of
43 the conduct or omission of his parents, guardian or other custodian or
44 their neglect or refusal to provide them; however, no child whose parent
45 or guardian chooses for such child treatment by prayers through spiri-
46 tual means alone in lieu of medical treatment shall be deemed for that
47 reason alone to be neglected or lack parental care necessary for his
48 health and well-being, but this subsection shall not prevent the court
49 from acting pursuant to section 16-1627, Idaho Code; or

1 (b) Whose parents, guardian or other custodian are unable to discharge
2 their responsibilities to and for the child and, as a result of such
3 inability, the child lacks the parental care necessary for his health,
4 safety or well-being; or

5 (c) Who has been placed for care or adoption in violation of law; or

6 (d) Who is without proper education because of the failure to comply
7 with section 33-202, Idaho Code.

8 ~~(2932)~~ "Permanency hearing" means a hearing to review, approve, reject
9 or modify the permanency plan of the department, and review reasonable ef-
10 forts in accomplishing the permanency plan.

11 ~~(303)~~ "Permanency plan" means a plan for a continuous residence and
12 maintenance of nurturing relationships during the child's minority.

13 ~~(314)~~ "Protective order" means an order issued by the court in a child
14 protection case, prior to the adjudicatory hearing, to enable the child to
15 remain in the home pursuant to section 16-1615(5) (f), Idaho Code. Such an
16 order shall be in the same form and have the same effect as a domestic vio-
17 lence protection order issued pursuant to chapter 63, title 39, Idaho Code.
18 A protective order shall be for a period not to exceed three (3) months unless
19 otherwise stated in the order.

20 ~~(325)~~ "Protective supervision" is a legal status created by court order
21 in a child protective case whereby the child is in the legal custody of his or
22 her parent(s), guardian(s) or other legal custodian(s), subject to supervi-
23 sion by the department.

24 ~~(36)~~ "Psychotropic medication" means a drug prescribed to affect psy-
25 chological functioning, perception, behavior or mood. Psychotropic medi-
26 cations include, but are not limited to, antidepressants, mood stabilizers,
27 antipsychotics, anti-anxiety medications, sedatives and stimulants.

28 ~~(37)~~ "Reasonable and prudent parent standard" means the standard of
29 care characterized by careful and sensible parental decisions that main-
30 tain the health, safety and best interests of a child while simultaneously
31 encouraging the emotional and developmental growth of the child, that a
32 caregiver shall use when determining whether to allow a child in foster care
33 under the responsibility of the state to participate in extracurricular,
34 enrichment, cultural or social activities.

35 ~~(338)~~ "Relative" means a child's grandparent, great grandparent,
36 aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first
37 cousin, sibling and half-sibling.

38 ~~(349)~~ "Residual parental rights and responsibilities" means those
39 rights and responsibilities remaining with the parents after the transfer of
40 legal custody including, but not necessarily limited to, the right of visi-
41 tation, the right to consent to adoption, the right to determine religious
42 affiliation, the right to family counseling when beneficial, and the respon-
43 sibility for support.

44 ~~(3540)~~ "Shelter care" means places designated by the department for
45 temporary care of children pending court disposition or placement.

46 ~~(3641)~~ "Supportive services," as used in this chapter, shall mean ser-
47 vices which assist parents with a disability to compensate for those aspects
48 of their disability which affect their ability to care for their child and
49 which will enable them to discharge their parental responsibilities. The
50 term includes specialized or adapted training, evaluations or assistance

1 with effectively using adaptive equipment and accommodations which allow
 2 parents with a disability to benefit from other services including, but not
 3 limited to, Braille texts or sign language interpreters.

4 SECTION 2. That Section 16-1615, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 16-1615. SHELTER CARE HEARING. (1) Notwithstanding any other provi-
 7 sion of this chapter, when a child is taken into shelter care pursuant to sec-
 8 tion 16-1608 or 16-1611, Idaho Code, a hearing to determine whether the child
 9 should be released shall be held according to the provisions of this section.

10 (2) Each of the parents or custodian from whom the child was removed
 11 shall be given notice of the shelter care hearing. Such notice shall include
 12 the time, place, and purpose of the hearing; and, that such person is enti-
 13 tled to be represented by legal counsel. Notice as required by this subsec-
 14 tion shall be given at least twenty-four (24) hours before the shelter care
 15 hearing.

16 (3) Notice of the shelter care hearing shall be given to the parents or
 17 custodian from whom the child was removed by personal service and the return
 18 of service shall be filed with the court and to any person having joint legal
 19 or physical custody of the subject child. Provided, however, that such ser-
 20 vice need not be made where the undelivered notice is returned to the court
 21 along with an affidavit stating that such parents or custodian could not be
 22 located or were out of the state.

23 (4) The shelter care hearing may be continued for a reasonable time upon
 24 request by the parent, custodian or counsel for the child.

25 (5) If, upon the completion of the shelter care hearing, it is shown
 26 that:

- 27 (a) A petition has been filed; and
 28 (b) There is reasonable cause to believe the child comes within the ju-
 29 risdiction of the court under this chapter and either:
 30 (i) The department made reasonable efforts to eliminate the need
 31 for shelter care but the efforts were unsuccessful; or
 32 (ii) The department made reasonable efforts to eliminate the need
 33 for shelter care but was not able to safely provide preventive ser-
 34 vices; and
 35 (c) The child could not be placed in the temporary sole custody of a par-
 36 ent having joint legal or physical custody; and
 37 (d) It is contrary to the welfare of the child to remain in the home; and
 38 (e) It is in the best interests of the child to remain in temporary shel-
 39 ter care pending the conclusion of the adjudicatory hearing; ~~or.~~
 40 ~~(f) There is reasonable cause to believe that the child comes within the~~
 41 ~~jurisdiction of the court under this chapter, but a reasonable effort to~~
 42 ~~prevent placement of the child outside the home could be affected by a~~
 43 ~~protective order safeguarding the child's welfare and maintaining the~~
 44 ~~child in his present surroundings;~~

45 ‡The court shall issue, within twenty-four (24) hours of such hearing, an a
 46 shelter care order of placing the child in the temporary legal custody and/or
 47 a protective order of the department or other authorized agency. Any evi-
 48 dence may be considered by the court which is of the type which reasonable
 49 people may rely upon.

1 (6) ~~Upon ordering shelter care finding reasonable cause pursuant to~~
 2 subsection (5) (b) of this section, the court shall ~~also~~ order an adjudica-
 3 tory hearing to be held as soon as possible, but in no event later than thirty
 4 (30) days from the date the petition was filed. In addition, the court shall
 5 inquire whether there is reason to believe that the child is an Indian child.

6 (7) ~~If the court does not find that the child should remain in shelter~~
 7 ~~care under subsection (5) of this section, the child shall be released and~~
 8 ~~the court may dismiss the petition~~ Upon entry of an order of shelter care, the
 9 court shall inquire:

10 (a) If the child is of school age, about the department's efforts to
 11 keep the child in the school at which the child is currently enrolled;
 12 and

13 (b) If a sibling group was removed from their home, about the depart-
 14 ment's efforts to place the siblings together, or if the department has
 15 not placed or will not be placing the siblings together, about a plan
 16 to ensure frequent visitation or ongoing interaction among the sib-
 17 lings, unless visitation or ongoing interaction would be contrary to
 18 the safety or well-being of one (1) or more of the siblings.

19 (8) If there is reasonable cause to believe that the child comes within
 20 the jurisdiction of the court under this chapter, but a reasonable effort to
 21 prevent placement of the child outside the home could be affected by a pro-
 22 protective order safeguarding the child's welfare, the court may issue, within
 23 twenty-four (24) hours of such hearing, a protective order. Any evidence may
 24 be considered by the court that is of the type which reasonable people may
 25 rely upon.

26 (9) If the court does not find that the child should be placed in or re-
 27 main in shelter care under subsection (5) of this section, the child shall be
 28 released.

29 (10) If the court does not find reasonable cause pursuant to subsection
 30 (5) (b) of this section, the court shall dismiss the petition.

31 SECTION 3. That Section 16-1619, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDA-
 34 TION. (1) When a petition has been filed, the court shall set an adjudicatory
 35 hearing to be held no later than thirty (30) days after the filing of the
 36 petition.

37 (2) A pretrial conference shall be held outside the presence of the
 38 court within three (3) to five (5) days before the adjudicatory hearing.
 39 Investigative reports required under section 16-1616, Idaho Code, shall be
 40 delivered to the court with copies to each of the parents and other legal cus-
 41 todians, guardian ad litem and attorney for the child prior to the pretrial
 42 conference.

43 (3) At the adjudicatory hearing, parents or guardians with disabil-
 44 ities shall have the right to introduce admissible evidence regarding how
 45 use of adaptive equipment or supportive services may enable the parent or
 46 guardian to carry out the responsibilities of parenting the child by ad-
 47 dressing the reason for the removal of the child.

48 (4) If a preponderance of the evidence at the adjudicatory hearing
 49 shows that the child comes within the court's jurisdiction under this chap-

1 ter upon the grounds set forth in section 16-1603, Idaho Code, the court
 2 shall so decree and in its decree shall make a finding on the record of the
 3 facts and conclusions of law upon which it exercises jurisdiction over the
 4 child.

5 (5) Upon entering its decree the court shall consider any information
 6 relevant to the disposition of the child but in any event shall:

7 (a) Place the child under the protective supervision of the department
 8 for an indeterminate period not to exceed the child's eighteenth birth-
 9 day; or

10 (b) Vest legal custody in the department or other authorized agency
 11 subject to residual parental rights and subject to full judicial review
 12 by the court of all matters relating to the custody of the child by the
 13 department or other authorized agency.

14 (6) If the court vests legal custody in the department or other autho-
 15 rized agency, the court shall make detailed written findings based on facts
 16 in the record, that, in addition to the findings required in subsection (4)
 17 of this section, continuation of residence in the home would be contrary to
 18 the welfare of the child and that vesting legal custody with the department
 19 or other authorized agency would be in the best interests of the child. In
 20 addition the court shall make detailed written findings based on facts in the
 21 record as to whether the department made reasonable efforts to prevent the
 22 placement of the child in foster care, including findings, when appropriate,
 23 that:

24 (a) Reasonable efforts were made but were not successful in eliminating
 25 the need for foster care placement of the child;

26 (b) The department made reasonable efforts to prevent removal but was
 27 not able to safely provide preventive services;

28 (c) Reasonable efforts to temporarily place the child with related per-
 29 sons were made but were not successful; or

30 (d) Reasonable efforts to reunify the child with one (1) or both parents
 31 were not required because aggravated circumstances were present. If
 32 aggravated circumstances are found, a permanency hearing for the child
 33 shall be held within thirty (30) days of the determination of aggravated
 34 circumstances.

35 (7) (a) The court shall also inquire regarding:

36 (i) Whether there is reason to believe that the child is an Indian
 37 child;

38 (ii) The efforts that have been made since the last hearing to de-
 39 termine whether the child is an Indian child; and

40 (iii) The department's efforts to work with all tribes of which the
 41 child may be a member to verify whether the child is a member or el-
 42 igible for membership.

43 (b) In addition, if the court vests legal custody of the child in the
 44 department or other authorized agency, the court shall inquire as to:

45 (i) If the child is of school age, the department's efforts to
 46 keep the child in the school at which the child is currently en-
 47 rolled; and

48 (ii) If a sibling group was removed from their home, the depart-
 49 ment's efforts to place the siblings together, or if the depart-
 50 ment has not placed or will not be placing the siblings together,

1 about a plan to ensure frequent visitation or ongoing interac-
 2 tion among the siblings, unless visitation or ongoing interaction
 3 would be contrary to the safety or well-being of one (1) or more of
 4 the siblings.

5 (c) If the court vests legal custody of the child in the department
 6 or other authorized agency and the child is being treated with psy-
 7 chotropic medication, these additional requirements shall apply:

8 (i) The department shall report to the court the medications and
 9 dosages prescribed for the child and the medical professional who
 10 prescribed the medication; and

11 (ii) The court shall inquire as to, and may make any additional
 12 inquiry relevant to, the use of psychotropic medications.

13 (8) A decree vesting legal custody in the department shall be binding
 14 upon the department and may continue until the child's eighteenth birthday.

15 (~~9~~) A decree vesting legal custody in an authorized agency other than
 16 the department shall be for a period of time not to exceed the child's eigh-
 17 teenth birthday, and on such other terms as the court shall state in its de-
 18 creed to be in the best interests of the child and which the court finds to be
 19 acceptable to such authorized agency.

20 (~~9~~10) In order to preserve the unity of the family system and to ensure
 21 the best interests of the child whether issuing an order of protective super-
 22 vision or an order of legal custody, the court may consider extending or ini-
 23 tiating a protective order as part of the decree. The protective order shall
 24 be determined as in the best interests of the child and upon a showing of con-
 25 tinuing danger to the child. The conditions and terms of the protective or-
 26 der shall be clearly stated in the decree.

27 (~~10~~1) If the court does not find that the child comes within the juris-
 28 isdiction of this chapter pursuant to subsection (4) of this section it shall
 29 dismiss the petition.

30 SECTION 4. That Section 16-1620, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 16-1620. FINDING OF AGGRAVATED CIRCUMSTANCES -- PERMANENCY PLAN --
 33 HEARING. (1) After a judicial determination that reasonable efforts to re-
 34 turn the child to his home are not required because aggravated circumstances
 35 were found to be present, the court shall hold a permanency hearing within
 36 thirty (30) days after the finding, and every twelve (12) months thereafter
 37 for as long as the court has jurisdiction. The department shall prepare a
 38 permanency plan and file the permanency plan with the court at least five (5)
 39 days prior to the permanency hearing. If the permanency plan has a goal of
 40 termination of parental rights and adoption, the department shall file the
 41 petition to terminate as required in section 16-1624(2), Idaho Code. Copies
 42 of the permanency plan shall be delivered to the parents and other legal
 43 guardians, prosecuting attorney or deputy attorney general, the guardian ad
 44 litem and attorney for the child.

45 (2) The permanency plan shall have a permanency goal of termination of
 46 parental rights and adoption, guardianship or, for youth age sixteen (16)
 47 years and older only, another planned permanent living arrangement and shall
 48 set forth the reasonable efforts necessary to finalize the permanency goal.

49 (3) The permanency plan shall also:

1 (a) Identify the services to be provided to the child, including ser-
2 vices to identify and meet any ~~special~~ educational, emotional, physical
3 or developmental needs the child may have, to assist the child in ad-
4 justing to the placement or to ensure the stability of the placement;

5 (b) Address all options for permanent placement of the child, including
6 consideration of options for in-state and out-of-state placement of the
7 child;

8 (c) Address the advantages and disadvantages of each option and include
9 a recommendation as to which option is in the child's best interest;

10 (d) Specifically identify the actions necessary to implement the rec-
11 ommended option;

12 (e) Specifically set forth a schedule for accomplishing the actions
13 necessary to implement the permanency goal;

14 (f) ~~Consider~~ Address the options for maintaining the child's connec-
15 tion to the community, including individuals with a significant rela-
16 tionship to the child, and organizations or community activities with
17 which the child has a significant connection. This shall also include
18 the efforts made to ensure educational stability for the child, the ef-
19 forts to keep the child in the school in which the child is enrolled at
20 the time of placement or the reasons why remaining in that school is not
21 in the best interests of the child; and

22 (g) ~~In the case of a child who has attained the age of sixteen (16)~~
23 ~~years, identify the services needed to assist the child to make the~~
24 ~~transition from foster care to independent living~~ Document that sib-
25 lings were placed together, or if siblings were not placed together,
26 document the efforts made to place siblings together, the reasons why
27 siblings were not placed together, and a plan for ensuring frequent vis-
28 itation or ongoing interaction between the siblings, unless visitation
29 or ongoing interaction would be contrary to the safety or well-being of
30 one (1) or more of the siblings;

31 (h) For youth age fourteen (14) years and older:

32 (i) Identify the services needed to assist the youth to make the
33 transition from foster care to successful adulthood; and

34 (ii) Document the youth's rights in regard to his education,
35 health, visitation, court participation and receipt of an annual
36 credit report, including a signed acknowledgment by the depart-
37 ment that the youth was provided with a written copy of these
38 rights and that the rights were explained to the youth in an age or
39 developmentally appropriate manner;

40 (i) For youth age sixteen (16) years and older with a proposed perma-
41 neny goal of another planned permanent living arrangement, document:

42 (i) The intensive, ongoing, and as of the date of the hearing,
43 unsuccessful efforts made to place the youth with a parent, in an
44 adoptive placement, in a guardianship, or in the legal custody of
45 the department in a placement with a fit and willing relative, in-
46 cluding an adult sibling;

47 (ii) Why another planned permanent living arrangement is the best
48 permanency plan for the youth and compelling reasons why, as of the
49 date of the permanency hearing, it would not be in the best inter-
50 est of the youth to be placed permanently with a parent, in an adop-

1 tive placement, in a guardianship, or in the legal custody of the
2 department in a placement with a fit and willing relative, includ-
3 ing an adult sibling;

4 (iii) The steps that the department has taken to ensure that the
5 youth's foster parents or child care institution are following the
6 reasonable and prudent parent standard when determining whether
7 to allow the youth in their care to participate in extracurricu-
8 lar, enrichment, cultural and social activities; and

9 (iv) The opportunities provided to the youth to engage in age or
10 developmentally appropriate activities; and

11 (j) If there is reason to believe the child is an Indian child and there
12 has been no final determination as to the child's status as an Indian
13 child, document:

14 (i) The efforts made to determine whether the child is an Indian
15 child; and

16 (ii) The department's efforts to work with all tribes of which the
17 child may be a member to verify whether the child is a member or el-
18 igible for membership.

19 (4) The court shall hold a permanency hearing to determine whether the
20 best interest of the child is served by adopting, rejecting or modifying the
21 permanency plan proposed by the department. At each permanency hearing:

22 (a) For youth age twelve (12) years and older, unless good cause is
23 shown, the court shall ask the youth about his desired permanency out-
24 come and consult with the youth about the youth's current permanency
25 plan;

26 (b) If there is reason to believe that the child is an Indian child and
27 there has not been a final determination regarding the child's status as
28 an Indian child, the court shall:

29 (i) Inquire about the efforts that have been made since the last
30 hearing to determine whether the child is an Indian child; and

31 (ii) Determine that the department is using active efforts to work
32 with all tribes of which the child may be a member to verify whether
33 the child is a member or eligible for membership.

34 (c) If the child is being treated with psychotropic medication, these
35 additional requirements shall apply:

36 (i) The department shall report to the court the medication and
37 dosage prescribed for the child and the medical professional who
38 prescribed the medication; and

39 (ii) The court shall inquire as to, and may make any additional
40 inquiry relevant to, the use of psychotropic medication.

41 (5) Notice of the permanency hearing shall be provided to the parents
42 and other legal guardians, prosecuting attorney or deputy attorney general,
43 guardian ad litem, attorney for the child, the department and foster par-
44 ents; provided however, that foster parents are not thereby made parties to
45 the child protective act action.

46 (6) The permanency plan as approved by the court shall be entered into
47 the record as an order of the court. The order may include interim and fi-
48 nal deadlines for implementing the permanency plan and finalizing the perma-
49 nency goal.

1 (7) ~~If the~~ For youth with a proposed or current permanency goal is
 2 ~~not termination of parental rights and adoption or guardianship,~~ another
 3 planned permanent living arrangement, at each permanency hearing the court
 4 ~~may approve a~~ shall make written, case-specific findings that as of the date
 5 of the permanency plan with a permanency goal of hearing, another planned
 6 permanent living arrangement ~~only upon written case-specific findings that~~
 7 ~~specify why a more permanent plan is not in the~~ is the best permanency plan
 8 for the youth and that there are compelling reasons why it is not in the
 9 youth's best interest of the child to be placed permanently with a parent,
 10 in an adoptive placement, in a guardianship, or in the legal custody of the
 11 department in a placement with a fit and willing relative, including an adult
 12 sibling.

13 (8) The court may authorize the department to suspend further efforts
 14 to reunify the child with the child's parent, pending further order of the
 15 court, when a petition or other motion is filed in a child protection pro-
 16 ceeding seeking a determination of the court that aggravated circumstances
 17 were present.

18 SECTION 5. That Section 16-1621, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 16-1621. CASE PLAN HEARING -- NO FINDING OF AGGRAVATED CIRCUM-
 21 STANCES. (1) In every case in which the child is determined to be within
 22 the jurisdiction of the court, and there is no judicial determination that
 23 aggravated circumstances were present, the department shall prepare a writ-
 24 ten case plan, including cases in which the parent(s) is incarcerated. The
 25 court shall schedule a case plan hearing to be held within thirty (30) days
 26 after the adjudicatory hearing. The case plan shall be filed with the court
 27 no later than five (5) days prior to the case plan hearing. Copies of the
 28 case plan shall be delivered to the parents and other legal guardians, the
 29 prosecuting attorney or deputy attorney general, the guardian ad litem and
 30 attorney for the child.

31 (a) The court shall hold a case plan hearing to determine whether the
 32 best interest of the child is served by adopting, rejecting or modifying
 33 the case plan proposed by the department.

34 (b) If there is reason to believe that the child is an Indian child and
 35 there has not been a final determination regarding the child's status as
 36 an Indian child, the court shall:

37 (i) Inquire about the efforts that have been made since the last
 38 hearing to determine whether the child is an Indian child; and

39 (ii) Determine that the department is using active efforts to work
 40 with all tribes of which the child may be a member to verify whether
 41 the child is a member or eligible for membership.

42 (c) If the child is being treated with psychotropic medication, the
 43 court shall inquire as to, and may make any additional inquiry relevant
 44 to, the use of psychotropic medication.

45 (2) Notice of the case plan hearing shall be provided to the parents,
 46 and other legal guardians, the prosecuting attorney or ~~deputing~~ deputy at-
 47 torney general, guardian ad litem, attorney for the child, the department
 48 and foster parents. Although foster parents are provided notice of this
 49 hearing, they are not parties to the child protective act action.

1 (3) If the child is placed in the legal custody of the department, the
2 case plan filed by the department shall set forth reasonable efforts that
3 will be made to make it possible for the child to return home. The case plan
4 shall also:

5 (a) Identify the services to be provided to the child, including ser-
6 vices to identify and meet any ~~special~~ educational, emotional, physi-
7 cal or developmental needs the child may have, and to assist the child in
8 adjusting to the placement or to ensure the stability of the placement.
9 For youth age fourteen (14) years and older:

10 (i) Identify the services needed to assist the youth in making the
11 transition to successful adulthood; and

12 (ii) Document the youth's rights in regard to his education and
13 health, visitation, court participation and receipt of an annual
14 credit report, including a signed acknowledgment by the depart-
15 ment that the youth was provided with a written copy of these
16 rights and that the rights were explained to the youth in an age or
17 developmentally appropriate manner.

18 (b) Address the options for maintaining the child's connection to the
19 community, including:

20 (i) Include connections to individuals with a significant rela-
21 tionship to the child, and organizations or community activities
22 with which the child has a significant connection;

23 (ii) Ensure educational stability for the child, including the
24 efforts to keep the child in the school in which the child is en-
25 rolled at the time of placement or the reasons why remaining in
26 that school is not in the best interests of the child;

27 (iii) Include a visitation plan and identify the need for supervi-
28 sion of visitation and child support;

29 (iv) Document either that siblings were placed together, or if
30 siblings were not placed together, document the efforts made to
31 place the siblings together, the reasons why siblings were not
32 placed together and a plan for ensuring frequent visitation or
33 other ongoing interaction among siblings, unless visitation or
34 ongoing interaction would be contrary to the safety or well-being
35 of one (1) or more of the siblings; and

36 (v) If there is reason to believe the child is an Indian child and
37 there has been no final determination as to the child's status as
38 an Indian child, document:

39 1. The efforts made to determine whether the child is an In-
40 dian child; and

41 2. The department's efforts to work with all tribes of which
42 the child may be a member to verify whether the child is a
43 member or eligible for membership.

44 (c) Include a goal of reunification and a plan for achieving that
45 goal. The reunification plan shall identify all issues that need to
46 be addressed before the child can safely be returned home without de-
47 partment supervision. The court may specifically identify issues to
48 be addressed by the plan. The reunification plan shall specifically
49 identify the tasks to be completed by the department, each parent or
50 others to address each issue, including services to be made available

1 by the department to the parents and in which the parents are required
2 to participate, and deadlines for completion of each task. The case
3 plan shall state with specificity the role of the department toward each
4 parent. When appropriate, the reunification plan should identify terms
5 for visitation, supervision of visitation and child support.

6 (d) Include a concurrent permanency goal and a plan for achieving that
7 goal. The concurrent permanency goal may be one (1) of the following:
8 termination of parental rights and adoption, guardianship or for youth
9 age sixteen (16) years or older only, another planned permanent living
10 arrangement. The concurrent plan shall:

11 (i) Address all options for permanent placement of the child,
12 including consideration of options for in-state and out-of-state
13 placement of the child;

14 (ii) Address the advantages and disadvantages of each option and
15 include a recommendation as to which option is in the child's best
16 interest;

17 (iii) Specifically identify the actions necessary to implement
18 the recommended option;

19 (iv) Specifically set forth a schedule for accomplishing the ac-
20 tions necessary to implement the concurrent permanency goal;

21 (v) Address options for maintaining the child's connection to the
22 community, including individuals with a significant relationship
23 to the child, and organizations or community activities with which
24 the child has a significant connection;

25 (vi) In the case of a child who has attained the age of ~~sixteen~~
26 fourteen (14) years, include the services needed to assist the
27 child to make the transition from foster care to ~~independent liv-~~
28 ing successful adulthood; and

29 (vii) For youth with a proposed permanency goal of another perma-
30 nent planned living arrangement, document:

31 1. The intensive, ongoing, and as of the date of the hearing,
32 unsuccessful efforts made to place the youth with a parent,
33 in an adoptive placement, in a guardianship, or in the legal
34 custody of the department in a placement with a fit and will-
35 ing relative, including an adult sibling;

36 2. Why another planned permanent living arrangement is the
37 best permanency goal for the youth and a compelling reason
38 why, as of the date of the case plan hearing, it would not be
39 in the best interest of the child to be placed permanently
40 with a parent, in an adoptive placement, in a guardianship,
41 or in the legal custody of the department in a placement with
42 a fit and willing relative, including an adult sibling;

43 3. The steps taken by the department to ensure that the
44 youth's foster parents or child care institution are follow-
45 ing the reasonable and prudent parent standard when making
46 decisions about whether the youth can engage in extracurric-
47 ular, enrichment, cultural and social activities; and

48 4. The opportunities provided to the youth to regularly en-
49 gage in age or developmentally appropriate activities; and

1 (viii) Identify further investigation necessary to identify or
2 assess other options for permanent placement, to identify actions
3 necessary to implement the recommended placement or to identify
4 options for maintaining the child's significant connections.

5 (4) If the child has been placed under protective supervision of the de-
6 partment, the case plan, filed by the department, shall:

7 (a) Identify the services to be provided to the child, including ser-
8 vices to identify and meet any ~~special~~ educational, emotional, physi-
9 cal or developmental needs the child may have, and to assist the child
10 in adjusting to the placement or to ensure the stability of the place-
11 ment. For youth age fourteen (14) years and older, identify the ser-
12 services needed to assist the youth in making the transition to success-
13 ful adulthood and document the youth's rights in regard to his educa-
14 tion and health, visitation, court participation and receipt of an an-
15 annual credit report, including a signed acknowledgment by the department
16 that the youth was provided with a written copy of his rights and that
17 the rights were explained to the youth in an age or developmentally ap-
18 propriate manner. The plan shall also address options for maintaining
19 the child's connection to the community, including individuals with a
20 significant relationship to the child, and organizations or community
21 activities with which the child has a significant connection.

22 (b) Identify all issues that need to be addressed to allow the child to
23 remain at home without department supervision. The court may specifi-
24 cally identify issues to be addressed by the plan. The case plan shall
25 specifically identify the tasks to be completed by the department, the
26 parents or others to address each issue, including services to be made
27 available by the department to the parents and in which the parents are
28 required to participate, and deadlines for completion of each task. The
29 plan shall state with specificity the role of the department toward each
30 parent.

31 (5) The case plan, as approved by the court, shall be entered into the
32 record as an order of the court. The order may include interim and final
33 deadlines for implementing the case plan and finalizing the permanency goal.
34 The court's order shall provide that reasonable efforts shall be made to re-
35 unify the family in a timely manner in accordance with the case plan. Unless
36 the child has been placed under the protective supervision of the depart-
37 ment, the court's order shall also require the department to simultaneously
38 take steps to accomplish the goal of reunification and the concurrent perma-
39 nency goal.

40 SECTION 6. That Section 16-1622, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 16-1622. REVIEW HEARINGS -- STATUS HEARINGS -- ANNUAL PERMANENCY
43 HEARINGS. (1) Review hearing.

44 (a) A hearing for review of the child's case and permanency plan shall
45 be held no later than six (6) months after entry of the court's order
46 taking jurisdiction under this act and every six (6) months thereafter.
47 The department and the guardian ad litem shall file reports to the court
48 no later than five (5) days prior to the six (6) month review hearing.
49 The purpose of the review hearing is:

1 (i) To determine:

2 ~~(i)~~1. The safety of the child;

3 ~~(ii)~~2. The continuing necessity for and appropriateness of
4 the placement;

5 ~~(iii)~~3. The extent of compliance with the case plan; and

6 ~~(iv)~~4. The extent of progress that has been made toward al-
7 leviating or mitigating the causes necessitating placement
8 in foster care; and

9 (ii) To determine or continue to investigate whether the child is
10 an Indian child. If there is reason to believe that the child is an
11 Indian child and there has not been a final determination regard-
12 ing the child's status as an Indian child:

13 1. The department shall document and the court shall inquire
14 about the efforts that have been made since the last hearing
15 to determine whether the child is an Indian child; and

16 2. The department shall document and the court shall de-
17 termine that the department is using active efforts to work
18 with all tribes of which the child may be a member to verify
19 whether the child is a member or eligible for membership;

20 (iii) To inquire regarding the child's educational stability. The
21 department shall document and the court shall inquire as to the ef-
22 forts made to ensure educational stability for the child, includ-
23 ing the efforts made to keep the child in the school in which the
24 child is enrolled at the time of placement or the reason that re-
25 maining in the school is not in the child's best interests;

26 (iv) To inquire regarding sibling placement. The department
27 shall document and the court shall inquire whether siblings were
28 placed together, or if siblings were not placed together, the
29 efforts made to place siblings together, the reasons why sib-
30 lings were not placed together, and a plan for ensuring frequent
31 visitation or ongoing interaction between the siblings, unless
32 visitation or ongoing interaction would be contrary to the safety
33 or well-being of one (1) or more of the siblings;

34 (v) To inquire regarding permanency. The court shall ask each
35 youth age twelve (12) years and older about his desired permanency
36 outcome and discuss with the youth his current permanency plan.
37 For a youth age fourteen (14) years and older, the hearing shall
38 include a review of the services needed to assist the youth to make
39 the transition from foster care to successful adulthood;

40 (vi) To document efforts related to the reasonable and prudent
41 parent standard. For a youth whose permanency goal is another
42 planned permanent living arrangement, the department shall docu-
43 ment:

44 1. That the youth's foster parents or child care institution
45 is following the reasonable and prudent parent standard when
46 deciding whether the child may participate in extracurricu-
47 lar, enrichment, cultural and social activities; and

48 2. The regular, ongoing opportunities to engage in age or
49 developmentally appropriate activities that have been pro-
50 vided to the youth;

1 (vii) To document efforts made to find a permanent placement other
 2 than another planned permanent living arrangement. For a youth
 3 whose permanency goal is another planned permanent living ar-
 4 angement, the department shall document:

5 1. The intensive, ongoing, and as of the date of the hearing,
 6 unsuccessful efforts made to place the youth with a parent,
 7 in an adoptive placement, in a guardianship, or in the legal
 8 custody of the department in a placement with a fit and will-
 9 ing relative, including an adult sibling; and

10 2. Why another planned permanent living arrangement is the
 11 best permanency plan for the youth and a compelling reason
 12 why, as of the date of the review hearing, it would not be in
 13 the best interest of the child to be placed permanently with
 14 a parent, in an adoptive placement, in a guardianship, or in
 15 the legal custody of the department in a placement with a fit
 16 and willing relative, including an adult sibling;

17 (viii) To make findings regarding a permanency goal of another
 18 planned permanent living arrangement. For youth whose permanency
 19 goal is another planned permanent living arrangement, the court
 20 shall make written case-specific findings, as of the date of the
 21 hearing, that:

22 1. Another planned permanent living arrangement is the best
 23 permanency goal for the youth; and

24 2. There are compelling reasons why it is not in the best in-
 25 terest of the youth to be placed permanently with a parent,
 26 in an adoptive placement, in a guardianship, or in the legal
 27 custody of the department in a placement with a fit and will-
 28 ing relative, including an adult sibling;

29 (ix) To document and inquire regarding psychotropic medication.
 30 At each review hearing, if the child is being treated with psy-
 31 chotropic medication, these additional requirements shall apply:

32 1. The department shall report to the court the medication
 33 and dosage prescribed for the child, and the medical profes-
 34 sional who prescribed the medication; and

35 2. The court shall inquire as to, and may make any additional
 36 inquiry relevant to, the use of psychotropic medication; and

37 (~~vx~~) ~~When reasonable, to~~ project, when reasonable, a likely date
 38 by which the child may be safely returned to and maintained in the
 39 home or placed in another permanent placement.

40 (b) A status hearing is a review hearing that does not address all or
 41 most of the purposes identified in paragraph (a) of this subsection and
 42 may be held at the discretion of the court. Neither the department nor
 43 the guardian ad litem is required to file a report with the court prior
 44 to a status hearing, unless ordered otherwise by the court.

45 (c) A motion for revocation or modification of an order issued un-
 46 der section 16-1619, Idaho Code, may be filed by the department or any
 47 party; provided that no motion may be filed by the respondents under
 48 this section within three (3) months of a prior hearing on care and
 49 placement of the child. Notice of a motion for review of a child's case
 50 shall be provided to the parents and other legal guardians, the prose-

1 cutting attorney or deputy attorney general, guardian ad litem, attorney
2 for the child, the department and foster parents.

3 (ed) If the motion filed under paragraph (~~b~~c) of this subsection al-
4 leges that the child's best interests are no longer served by carrying
5 out the order issued under section 16-1619, Idaho Code, or that the de-
6 partment or other authorized agency has failed to provide adequate care
7 for the child, the court shall hold a hearing on the motion.

8 (~~d~~e) The department or authorized agency may move the court at any time
9 to vacate any order placing a child in its custody or under its protec-
10 tive supervision.

11 (2) Permanency plan and hearing.

12 (a) The permanency plan shall include a permanency goal. The per-
13 manency goal may be one (1) of the following: continued efforts at
14 reunification, in the absence of a judicial determination of aggra-
15 vated circumstances; or termination of parental rights and adoption,
16 guardianship or, for youth age sixteen (16) years and older only, an-
17 other planned permanent living arrangement. Every permanency plan
18 shall include the information set forth in section 16-1621(3)(a), Idaho
19 Code. If the permanency plan has reunification as a permanency goal,
20 the plan shall include information set forth in section 16-1621(3)(c),
21 Idaho Code. If the permanency plan has a permanency goal other than
22 reunification, the plan shall include the information set forth in sec-
23 tion 16-1621(3)(d), Idaho Code. The court may approve a permanency plan
24 which includes a primary goal and a concurrent goal.

25 (b) A permanency hearing shall be held no later than twelve (12) months
26 from the date the child is removed from the home or the date of the
27 court's order taking jurisdiction under this chapter, whichever occurs
28 first, and at least every twelve (12) months thereafter, so long as the
29 court has jurisdiction over the child. The court shall approve, reject
30 or modify the permanency plan of the department and review progress in
31 accomplishing the permanency goal. A permanency hearing may be held
32 at any time and may be combined with the review hearing required under
33 subsection (1) of this section.

34 (c) The court shall make written case-specific findings whether the
35 department made reasonable efforts to finalize the primary permanency
36 goal in effect for the child. Lack of reasonable efforts to reunify may
37 be a basis for an order approving a permanency plan with a permanency
38 goal of reunification.

39 (d) Where the permanency goal is not reunification, the hearing shall
40 include a review of the department's consideration of options for
41 in-state and out-of-state placement of the child. In the case of a
42 child in an out-of-state placement, the court shall determine whether
43 the out-of-state placement continues to be appropriate and in the best
44 interest of the child.

45 (e) The court shall ask each youth age twelve (12) years and older about
46 his desired permanency outcome and discuss with the youth his current
47 permanency plan. In the case of a child who has attained the age of
48 ~~sixteen~~ fourteen (164) years and older, the hearing shall include a
49 determination of the services needed to assist the ~~child~~ youth to make

1 the transition from foster care to ~~independent living~~ successful adult-
2 hood.

3 (f) The court may approve a primary permanency goal of another planned
4 permanent living arrangement only for youth age sixteen (16) years or
5 older and only upon written, case-specific findings that there are com-
6 PELLING reasons why a more permanent goal is not in the best interests of
7 the child, as of the date of the hearing:

8 (i) Another planned permanent living arrangement is the best per-
9 manency goal for the youth; and

10 (ii) There are compelling reasons why it is not in the best inter-
11 est of the youth to be placed permanently with a parent, in an adop-
12 tive placement, in a guardianship or in the legal custody of the
13 department in a placement with a fit and willing relative, includ-
14 ing an adult sibling.

15 (g) If the child has been in the temporary or legal custody of the de-
16 partment for fifteen (15) of the most recent twenty-two (22) months, the
17 department shall file, prior to the last day of the fifteenth month, a
18 petition to terminate parental rights, unless the court finds that:

19 (i) The child is placed permanently with a relative;

20 (ii) There are compelling reasons why termination of parental
21 rights is not in the best interests of the child; or

22 (iii) The department has failed to provide reasonable efforts to
23 reunify the child with his family.

24 (h) The department shall document and the court shall inquire:

25 (i) As to the efforts made to ensure educational stability for the
26 child, including the efforts made to keep the child in the school
27 in which the child is enrolled at the time of placement or that re-
28 maining in the school is not in the child's best interests; and

29 (ii) That siblings were placed together, or, if siblings were not
30 placed together, the efforts made to place siblings together, the
31 reasons why siblings were not placed together or why a joint place-
32 ment would be contrary to the safety or well-being of one (1) or
33 more of the siblings, and a plan for ensuring frequent visitation
34 or ongoing interaction among siblings, unless visitation or ongo-
35 ing interaction would be contrary to the safety or well-being of
36 one (1) or more of the siblings.

37 (i) If there is reason to believe that the child is an Indian child and
38 there has not been a final determination regarding the child's status as
39 an Indian child, the department shall document and the court shall:

40 (i) Inquire about the efforts that have been made since the last
41 hearing to determine whether the child is an Indian child; and

42 (ii) Determine that the department has made active efforts to work
43 with all tribes of which the child may be a member to verify whether
44 the child is a member or eligible for membership.

45 (j) At each permanency hearing, if the child is being treated with psy-
46 chotropic medication, these additional requirements shall apply:

47 (i) The department shall report to the court the medication and
48 dosage prescribed for the child, and the medical professional who
49 prescribed the medication; and

1 (ii) The court shall inquire as to, and may make any additional
2 inquiry relevant to, the use of psychotropic medication.

3 (k) The court may authorize the department to suspend further efforts
4 to reunify the child with the child's parent, pending further order of
5 the court, when a permanency plan is approved by the court and the perma-
6 nency plan does not include a permanency goal of reunification.

7 (3) If a youth is in the legal custody of the department or other autho-
8 riized agency and is within ninety (90) days of his eighteenth birthday, the
9 department shall file a report with the court that includes the department's
10 transition plan for the youth. The court shall have a review or permanency
11 hearing at which the court shall:

12 (a) Discuss with the youth his or her transition plan; and

13 (b) Review the transition plan with the youth for purposes of ensur-
14 ing that the plan provides the services necessary to allow the youth to
15 transition to a successful adulthood.

16 SECTION 7. That Section 16-1623, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 16-1623. AMENDED DISPOSITION -- REMOVAL DURING PROTECTIVE SUPERVI-
19 SION. (1) Where the child has been placed under the protective supervision
20 of the department pursuant to section 16-1619, Idaho Code, the child may be
21 removed from his or her home under the following circumstances:

22 (a) A peace officer may remove the child where the child is endangered
23 in his surroundings and prompt removal is necessary to prevent serious
24 physical or mental injury to the child; or

25 (b) The court has ordered, based upon facts presented to the court,
26 that the child should be removed from his or her present conditions or
27 surroundings because continuation in such conditions or surroundings
28 would be contrary to the welfare of the child and vesting legal custody
29 in the department or other authorized agency would be in the child's
30 best interests.

31 (2) Upon removal, the child shall be taken to a place of shelter care.

32 (3) When a child under protective supervision is removed from his
33 home pursuant to subsection (1) (a) or (b) of this section without a hear-
34 ing, a redisposition hearing shall be held within forty-eight (48) hours
35 of the child's removal from the home, except for Saturdays, Sundays and
36 holidays. At the hearing, the court shall determine whether to vest legal
37 custody in the department or other authorized agency pursuant to section
38 16-1619(5) (b), Idaho Code. When a child under protective supervision is
39 removed from his home pursuant to subsection (1) (b) of this section and the
40 facts supporting the removal are presented to the court at a hearing, the
41 hearing at which the court orders the child's removal is the redisposition
42 hearing.

43 (4) In determining whether to vest legal custody in the department or
44 other authorized agency, the court shall consider any information relevant
45 to the redisposition of the child, and in any event shall make detailed
46 written findings based upon facts in the record as required by section
47 16-1619(6), Idaho Code.

48 (5) An order vesting legal custody with the department or other autho-
49 rized agency under this section shall be treated for all purposes as if such

1 an order had been part of the court's original decree under section 16-1619,
2 Idaho Code. The court may order the department shall to prepare a written
3 case plan and. The court shall may hold a case plan hearing. The case plan
4 hearing shall be held within thirty (30) days of the redispotion hearing
5 pursuant to section 16-1621, Idaho Code.

6 (6) Each of the parents or legal guardians from whom the child was re-
7 moved shall be given notice of the redispotion hearing in the same time
8 and manner as required for notice of a shelter care hearing under section
9 16-1615(2) and (3), Idaho Code.

10 (7) The redispotion hearing may be continued for a reasonable time
11 upon the request of the parties.

12 SECTION 8. That Section 16-2002, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 16-2002. DEFINITIONS. When used in this chapter, unless the text oth-
15 erwise requires:

16 (1) "Court" means the district court or magistrate's division thereof
17 or, if the context requires, a judge or magistrate thereof.

18 (2) "Child" or "minor" means any individual who is under the age of
19 eighteen (18) years.

20 (3) "Neglected" means:

21 (a) Conduct as defined in section 16-1602(~~2831~~), Idaho Code; or

22 (b) The parent(s) has failed to comply with the court's orders or the
23 case plan in a child protective act case and:

24 (i) The department has had temporary or legal custody of the child
25 for fifteen (15) of the most recent twenty-two (22) months; and

26 (ii) Reunification has not been accomplished by the last day of
27 the fifteenth month in which the child has been in the temporary or
28 legal custody of the department.

29 (4) "Abused" means conduct as defined in section 16-1602(1), Idaho
30 Code.

31 (5) "Abandoned" means the parent has willfully failed to maintain a
32 normal parental relationship including, but not limited to, reasonable sup-
33 port or regular personal contact. Failure of the parent to maintain this
34 relationship without just cause for a period of one (1) year shall constitute
35 prima facie evidence of abandonment under this section; provided however,
36 where termination is sought by a grandparent seeking to adopt the child, the
37 willful failure of the parent to maintain a normal parental relationship as
38 provided herein without just cause for six (6) months shall constitute prima
39 facie evidence of abandonment.

40 (6) "Legal custody" means status created by court order which vests in a
41 custodian the following rights and responsibilities:

42 (a) To have physical custody and control of the child and to determine
43 where and with whom the child shall live;

44 (b) To supply the child with food, clothing, shelter and incidental ne-
45 cessities;

46 (c) To provide the child with care, education and discipline; and

47 (d) To authorize medical, dental, psychiatric, psychological and other
48 remedial care and treatment for the child, including care and treatment
49 in a facility with a program of services for children;

1 provided that such rights and responsibilities shall be exercised subject to
2 the powers, rights, duties and responsibilities of the guardian of the per-
3 son.

4 (7) "Guardianship of the person" means those rights and duties imposed
5 upon a person appointed as guardian of a minor under the laws of Idaho. It
6 includes but is not necessarily limited either in number or kind to:

7 (a) The authority to consent to marriage, to enlistment in the armed
8 forces of the United States, and to major medical, psychiatric and sur-
9 gical treatment; to represent the minor in legal actions; and to make
10 other decisions concerning the child of substantial legal signifi-
11 cance;

12 (b) The authority and duty of reasonable visitation, except to the ex-
13 tent that such right of visitation has been limited by court order;

14 (c) The rights and responsibilities of legal custody except where legal
15 custody has been vested in another individual or in an authorized child
16 placement agency;

17 (d) When the parent and child relationship has been terminated by judi-
18 cial decree with respect to the parents, or only living parent, or when
19 there is no living parent, the authority to consent to the adoption of
20 the child and to make any other decision concerning the child which the
21 child's parents could make.

22 (8) "Guardian ad litem" means a person appointed by the court pursuant
23 to section 16-1614 or 5-306, Idaho Code.

24 (9) "Authorized agency" means the department, a local agency, a person,
25 an organization, corporation, benevolent society or association licensed
26 or approved by the department or the court to receive children for control,
27 care, maintenance or placement.

28 (10) "Department" means the department of health and welfare and its au-
29 thorized representatives.

30 (11) "Parent" means:

31 (a) The birth mother or the adoptive mother;

32 (b) The adoptive father;

33 (c) The biological father of a child conceived or born during the fa-
34 ther's marriage to the birth mother; and

35 (d) The unmarried biological father whose consent to an adoption of the
36 child is required pursuant to section 16-1504, Idaho Code.

37 (12) "Presumptive father" means a man who is or was married to the birth
38 mother and the child is born during the marriage or within three hundred
39 (300) days after the marriage is terminated.

40 (13) "Parent and child relationship" includes all rights, privileges,
41 duties and obligations existing between parent and child, including inheri-
42 tance rights, and shall be construed to include adoptive parents.

43 (14) "Parties" includes the child and the petitioners.

44 (15) "Unmarried biological father," as used in this chapter and chapter
45 15, title 16, Idaho Code, means the biological father of a child who was not
46 married to the child's mother at the time the child was conceived or born.

47 (16) "Unmarried biological mother," as used in this chapter, means the
48 biological mother of a child who was not married to the child's biological
49 father at the time the child was conceived or born.

1 (17) "Disability" means, with respect to an individual, any mental or
2 physical impairment which substantially limits one (1) or more major life
3 activities of the individual including, but not limited to, self-care, man-
4 ual tasks, walking, seeing, hearing, speaking, learning, or working, or a
5 record of such an impairment, or being regarded as having such an impairment.
6 Disability shall not include transvestism, transsexualism, pedophilia,
7 exhibitionism, voyeurism, other sexual behavior disorders, or substance use
8 disorders, compulsive gambling, kleptomania, or pyromania. Sexual prefer-
9 ence or orientation is not considered an impairment or disability. Whether
10 an impairment substantially limits a major life activity shall be determined
11 without consideration of the effect of corrective or mitigating measures
12 used to reduce the effects of the impairment.

13 (18) "Adaptive equipment" means any piece of equipment or any item that
14 is used to increase, maintain, or improve the parenting abilities of a parent
15 with a disability.

16 (19) "Supportive services" means services which assist a parent with a
17 disability to compensate for those aspects of their disability which affect
18 their ability to care for their child and which will enable them to discharge
19 their parental responsibilities. The term includes specialized or adapted
20 training, evaluations, or assistance with effective use of adaptive equip-
21 ment, and accommodations which allow a parent with a disability to benefit
22 from other services, such as Braille texts or sign language interpreters.