

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 194

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO COUNSELING; AMENDING SECTION 15-5-104, IDAHO CODE, TO PROVIDE THAT A PARENT OR GUARDIAN MAY DELEGATE POWER IN CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 39-1202, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 15-5-104, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-104. DELEGATION OF POWERS BY PARENT OR GUARDIAN. A parent or a guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding six (6) months, or in the case of military personnel serving beyond the territorial limits of the United States for a period not exceeding twelve (12) months, any of the parent's or guardian's powers regarding care, custody, or property of the minor or ward including, but not limited to, powers for medical care and educational care of the minor or ward, including counseling of a religious nature regarding behavioral issues and substance abuse issues, except the parent's or guardian's power to consent to marriage or adoption of a minor or ward. The delegation for a minor to a grandparent of the minor, or to a sibling of the minor, or to a sibling of either parent of the minor, shall continue in effect until the time period, or date, or condition set forth in the power of attorney for automatic expiration of the power of attorney occurs. If the power of attorney does not provide a time period, or date, or condition for automatic expiration of the power, the power of attorney shall continue in effect for a period of three (3) years. The power may be revoked prior to the expiration of the three (3) year period, or prior to the time period, or date, or condition for automatic expiration, in a writing delivered to the grandparent or sibling by the delegating parent or guardian. The power of attorney does not need to be notarized or recorded to be valid. However, if the power is recorded, any revocation of the power by a writing must also be recorded before the revocation is effective.

SECTION 2. That Section 39-1202, Idaho Code, be, and the same is hereby amended to read as follows:

39-1202. DEFINITIONS. For the purposes of this chapter:

- (1) "Board" means the Idaho board of health and welfare.
- (2) "Child care" means that care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.
- (3) "Child" means an individual less than eighteen (18) years of age who is not enrolled in an institution of higher education.

1 (4) "Children's agency" means a person who operates a business for the
2 placement of children in foster homes or for adoption in a permanent home
3 and who does not provide child care as part of that business. Children's
4 agency does not include a licensed attorney or physician assisting or pro-
5 viding natural and adoptive parents with legal services or medical services
6 necessary to initiate and complete adoptive placements.

7 (5) "Children's camp" means a program of child care at a location away
8 from the child's home which is primarily recreational and includes the
9 overnight accommodation of the child and is not intended to provide treat-
10 ment, therapy or rehabilitation for the child.

11 (6) "Children's institution" means a person who operates a residential
12 facility for children not related to that person if that person is an indi-
13 vidual, for the purpose of providing child care. Children's institutions
14 include, but are not limited to, foster homes, maternity homes, children's
15 therapeutic outdoor programs, or any facilities providing treatment, ther-
16 apy or rehabilitation for children. Children's institutions do not include:
17 (a) facilities which provide only daycare as defined in chapter 11, title 39,
18 Idaho Code; (b) facilities and agencies including hospitals, skilled nurs-
19 ing facilities, intermediate care facilities, and intermediate care facili-
20 ties for people with intellectual disabilities licensed pursuant to chapter
21 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an ad-
22 visory capacity, counseling a child in a religious context, including coun-
23 seling of a religious nature regarding behavioral issues and substance abuse
24 issues, and providing no child including continuous care associated with the
25 advice of the child for a period of time not to exceed six (6) months and upon
26 consent of the parent; (e) the occasional or irregular care of a neighbor's,
27 relative's or friend's child or children by a person not ordinarily engaged
28 in child care.

29 (7) "Children's residential care facility" means a children's institu-
30 tion, excluding:

- 31 (a) Foster homes;
- 32 (b) Residential schools;
- 33 (c) Children's camps.

34 No facility expressly excluded from the definition of a children's institu-
35 tion is included within the definition of a children's residential care fa-
36 cility.

37 (8) "Children's therapeutic outdoor program" is a program which is de-
38 signed to provide behavioral, substance abuse, or mental health services to
39 minors in an outdoor setting. This does not include children's camps, church
40 camps, or other outdoor programs primarily designed to be educational or
41 recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

42 (9) "Continued care" means the ongoing placement of an individual in a
43 foster home, children's residential care facility, or transitional living
44 placement who reaches the age of eighteen (18) years but is less than twenty-
45 one (21) years of age.

46 (10) "Day school" means a public, private, parochial or secular facil-
47 ity offering an educational program in which the children leave the facility
48 each day at the conclusion of the academic, vocational or school supervised
49 activities.

50 (11) "Department" means the state department of health and welfare.

1 (12) "Director" means the director of the department of health and wel-
2 fare.

3 (13) "Foster care" means child care by a person not related to the child,
4 in lieu of parental care, in a foster home.

5 (14) "Foster home" means a home which accepts, for any period of time,
6 with or without compensation, one (1) or more children who are not related
7 to the foster parent as members of the household for the purpose of providing
8 substitute parental care.

9 (15) "Group care" means foster care of a number of children for whom
10 child care in a family setting is not available or appropriate, in a dormi-
11 tory or cottage type setting, characterized by activities and discipline of
12 a more regimented and less formal nature than found in a family setting.

13 (16) "Juvenile detention" is as defined in section 20-502(6), Idaho
14 Code, of the juvenile corrections act.

15 (17) "Juvenile detention center" means a facility established pursuant
16 to sections 20-517 and 20-518, Idaho Code.

17 (18) "Person" includes any individual, group of individuals, associa-
18 tion, partnership, limited liability company or corporation.

19 (19) "Placement" means finding a suitable licensed foster home or suit-
20 able adoptive home for a child and completing the arrangements for a child to
21 be accepted into and adjusted to such home.

22 (20) "Relative" means a child's grandparent, great grandparent, aunt,
23 great aunt, uncle, great uncle, brother-in-law, sister-in-law, first
24 cousin, sibling and half-sibling.

25 (21) "Representative" means an employee of the state department of
26 health and welfare.

27 (22) "Residential facility" means any facility where child care is pro-
28 vided, as defined in this section, and which provides day and night accommo-
29 dation.

30 (23) "Residential school" means a residential facility for children
31 which:

32 (a) Provides a planned, scheduled, regular, academic or vocational
33 school program for students in the elementary, middle or secondary
34 grades as defined in section 33-1001, Idaho Code; and

35 (b) Provides services substantially comparable to those provided in
36 nonresidential public schools where the primary purpose is the educa-
37 tion and academic pursuits of the students; and

38 (c) Does not seek, receive or enroll students for treatment of such spe-
39 cial needs as substance abuse, mental illness, emotional disturbance,
40 developmental disability or intellectual disability; and

41 (d) Is not:

42 (i) A college or university; or

43 (ii) A children's camp as defined in this section; or

44 (iii) A public or private day school in which the children leave
45 the facility each day at the conclusion of the academic, voca-
46 tional and school supervised activities.

47 (24) "Transitional living" means living arrangements and aftercare
48 services for children, or as continued care, to gain experience living on
49 their own in a supportive and supervised environment prior to emancipation.