

IN THE SENATE

SENATE BILL NO. 1312

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1619, IDAHO CODE,
2 TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE NEED NOT MAKE
3 REASONABLE EFFORTS TO PREVENT THE PLACEMENT OF A CHILD INTO FOSTER CARE
4 WHERE A PARENT HAS COMMITTED AN INJURY TO SUCH CHILD THAT RESULTS IN A
5 SERIOUS OR GREAT BODILY INJURY.
6

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

8 SECTION 1. That Section 16-1619, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING --
11 CONSOLIDATION. (1) When a petition has been filed, the court shall set an
12 adjudicatory hearing to be held no later than thirty (30) days after the
13 filing of the petition.

14 (2) A pretrial conference shall be held outside the presence of the
15 court within three (3) to five (5) days before the adjudicatory hearing.
16 Investigative reports required under section 16-1616, Idaho Code, shall
17 be delivered to the court with copies to each of the parents and other
18 legal custodians, guardian ad litem and attorney for the child prior to the
19 pretrial conference.

20 (3) At the adjudicatory hearing, parents or guardians with
21 disabilities shall have the right to introduce admissible evidence
22 regarding how use of adaptive equipment or supportive services may enable
23 the parent or guardian to carry out the responsibilities of parenting the
24 child by addressing the reason for the removal of the child.

25 (4) If a preponderance of the evidence at the adjudicatory hearing
26 shows that the child comes within the court's jurisdiction under this
27 chapter upon the grounds set forth in section 16-1603, Idaho Code, the court
28 shall so decree and in its decree shall make a finding on the record of the
29 facts and conclusions of law upon which it exercises jurisdiction over the
30 child.

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

33 (a) Place the child under protective supervision in his own home for an
34 indeterminate period not to exceed the child's eighteenth birthday; or

35 (b) Vest legal custody in the department or other authorized agency
36 subject to residual parental rights and subject to full judicial review
37 by the court of all matters relating to the custody of the child by the
38 department or other authorized agency.

39 (6) If the court vests legal custody in the department or other
40 authorized agency, the court shall make detailed written findings based
41 on facts in the record, that, in addition to the findings required in
42 subsection (4) of this section, continuation of residence in the home would

1 be contrary to the welfare of the child and that vesting legal custody with
2 the department or other authorized agency would be in the best interests of
3 the child. In addition the court shall make detailed written findings based
4 on facts in the record as to whether the department made reasonable efforts
5 to prevent the placement of the child in foster care, including findings,
6 when appropriate, that:

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

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

11 (c) Reasonable efforts to temporarily place the child with related
12 persons were made but were not successful; or

13 (d) Reasonable efforts were not required as the parent had subjected
14 the child to aggravated circumstances as determined by the court
15 including, but not limited to: abandonment; torture; chronic abuse;
16 sexual abuse; committed murder; committed voluntary manslaughter of
17 another child; aided or abetted, attempted, conspired or solicited to
18 commit such a murder or voluntary manslaughter; committed a battery or
19 an injury to a child that results in serious or great bodily injury to
20 a child; or the parental rights of the parent to a sibling of the child
21 have been terminated involuntarily and that as a result, a hearing to
22 determine the permanent future plan for this child will be held within
23 thirty (30) days of this determination.

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

26 (8) A decree vesting legal custody in an authorized agency other than
27 the department shall be for a period of time not to exceed the child's
28 eighteenth birthday, and on such other terms as the court shall state in its
29 decree to be in the best interests of the child and which the court finds to be
30 acceptable to such authorized agency.

31 (9) In order to preserve the unity of the family system and to ensure
32 the best interests of the child whether issuing an order of protective
33 supervision or an order of legal custody, the court may consider extending
34 or initiating a protective order as part of the decree. The protective
35 order shall be determined as in the best interests of the child and upon a
36 showing of continuing danger to the child. The conditions and terms of the
37 protective order shall be clearly stated in the decree.

38 (10) If the court does not find that the child comes within the
39 jurisdiction of this chapter pursuant to subsection (4) of this section it
40 shall dismiss the petition.