

New Idaho Code Section 16-2426A

HB 233 (2021)

KayT Garrett & Madison Miles
Deputy Attorneys General
Idaho Department of Health and Welfare

New section of Children's Mental Health Services Act:

Idaho Code 16-2426A

Effective July 1, 2021

- (1) The department shall not make a **substantiated disposition** that a child has been abused, neglected, or abandoned by a parent or guardian under the child protective act, chapter 16, title 16, Idaho Code, **because of a request for inpatient hospital treatment or an out-of-home placement for the child**, if
- the child's recent mental health condition demonstrates that the child is likely to
 - cause harm to himself
 - or to suffer substantial mental or physical deterioration,
 - and/or is likely to cause harm to others,
 - and if the risk cannot be eliminated before returning the child to the child's family.

(2) In order to intercept and divert children at risk of being removed from their parent's or guardian's custody under [the Child Protective Act], the department,

- within one hundred eighty (180) days after the effective date of this section,* shall
 - enter into an **interagency agreement with appropriate agencies**
 - for the purpose of preventing children who are not otherwise abused or neglected from entering the custody of the department for purposes of receiving services for serious emotional disturbance.
- The interagency agreement shall require the department to establish an interagency clinical team to
 - review cases of children who are at the hospital or another similar treatment facility and
 - *to connect the child and his family with the appropriate services, treatment, and support in order to stabilize the child's serious emotional disturbance and*
 - *to prevent removal by the department under [the Child Protective Act].*

*180 days after effective date = January 1, 2022

Clarifications about the law:

- Does not provide new resources for placement or treatment of children

- work group is analyzing strategies & engaging with stakeholders
- workforce and access issues remain challenging

Clarifications about the law:

- Does not prevent the court from taking jurisdiction under the Child Protective Act
- Does not prevent law enforcement from declaring children in imminent danger

- Education is needed to clarify that, unless a safety assessment determines abuse, neglect, or abandonment exist, a CPA action is not appropriate.
- Address misconception that a child will have greater access to mental health resources if he enters care under the CPA.

Clarifications about the law:

- Does not impact the voluntary or involuntary treatment provisions of the Children's Mental Health Services Act (CMHSA)
- Consistent with CMHSA, in that parents retain legal custody when children receiving treatment services

- CMHSA encourages voluntary, home and community-based services delivered in a family-driven, collaborative system of care
- Stresses least-restrictive placements of the shortest duration

The background features a dark green field with various shades of green leaves and abstract shapes. Some shapes have a dotted pattern, while others are solid. The overall aesthetic is clean and modern.

Successful implementation requires

- intra-agency and inter-agency collaboration to provide services and supports to children experiencing SED and their families
- individualized assessment of child's needs and available resources
- education about role of the department and other community partners for children suffering from SED

Internal Department Response:

- Cross-division collaboration and communication
- Quick Reaction Team: empowered decision-makers collaborate to plan for children
- Coordinated response with regional field staff

These efforts are underway now.

Intra-agency agreement for multiple Department programs.

Internal Department Response:

FACS: Child Welfare Administrative Directive

- Substantiation will not occur based solely upon a request for treatment or out of home placement
- Individualized safety assessment may be appropriate
- Review by DAG and Child Welfare Chief required

Department Response:

ENGAGEMENT WITH STAKEHOLDERS & COMMUNITY PARTNERS:

Focus Groups were held to
engage and learn from:

- Parents and Families
- Law enforcement agencies,
and
- Hospitals/treatment
providers

The background features several abstract, overlapping geometric shapes in various shades of green. These shapes include circles, semi-circles, and rounded rectangles, some with a fine dotted pattern. The overall composition is modern and minimalist.

Questions?