



LEGISLATURE OF THE STATE OF IDAHO



Sixty-fifth Legislature

First Regular Session - 2019

IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT

RELATING TO CHILDREN'S MENTAL HEALTH SERVICES; AMENDING SECTION 16-2403, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 16-2403, Idaho Code, be, and the same is hereby amended to read as follows:

16-2403. DEFINITIONS. As used in this chapter:

(1) "Child" means an individual less than eighteen (18) years of age and not emancipated by either marriage or legal proceeding.

(2) "Consistent with the least restrictive alternative principle" means that services are delivered in the setting ~~which~~ that places the fewest restrictions on the personal liberty of the child, ~~and~~ that provides the greatest integration with individuals who do not have disabilities, in typical and age-appropriate ~~school~~, community and family environments, which is consistent with safe, effective and cost-effective treatment for the child and family.

(3) "Department" means the department of health and welfare.

(4) "Designated examiner" means a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated in accordance with rules promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code, by the department of health and welfare. Any person designated by the department director will be specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions.

(5) "Director" means the director of the state department of health and welfare.

(6) "Emergency" means a situation in which the child's condition, as evidenced by recent behavior, poses a significant threat to the health or safety of the child, his family or others, or poses a serious risk of substantial deterioration in the child's condition which cannot be eliminated by the use of supportive services or intervention by the child's parents, or mental health professionals, and treatment in the community while the child remains in his family home.

(7) "Informed consent to treatment" means a knowing and voluntary decision to undergo a specific course of treatment, evidenced in writing, and made by an emancipated child, or a child's parent, or guardian, who has the capacity to make an informed decision, after the staff of the facility or other provider of treatment ~~have~~ has explained the nature and effects of the proposed treatment.

(8) "Involuntary treatment" means treatment, services and placement of children provided without consent of the parent of a child, under the authority of a court order obtained pursuant to this chapter, as directed by

1 an order of disposition issued by a designated employee of the department of  
2 health and welfare under section 16-2415, Idaho Code.

3 (9) "Lacks capacity to make an informed decision concerning treatment"  
4 means that the parent is unable to understand the nature and effects of hos-  
5 pitalization or treatment, or is unable to engage in a rational decision-  
6 making process regarding such hospitalization or treatment, as evidenced by  
7 an inability to weigh the risks and benefits, despite conscientious efforts  
8 to explain them in terms that the parent can understand.

9 (10) "Likely to cause harm to himself or to suffer substantial mental  
10 or physical deterioration" means that, as evidenced by recent behavior, the  
11 child:

12 (a) Is likely in the near future to inflict substantial physical injury  
13 upon himself; ~~or~~

14 (b) Is likely to suffer significant deprivation of basic needs such as  
15 food, clothing, shelter, health or safety; or

16 (c) Will suffer a substantial increase or persistence of symptoms of  
17 mental illness or serious emotional disturbance which is likely to re-  
18 sult in an inability to function in the community without risk to his  
19 safety or well-being or the safety or well-being of others, and which  
20 cannot be treated adequately with available home and community-based  
21 outpatient services.

22 (11) "Likely to cause harm to others" means that, as evidenced by re-  
23 cent behavior causing, attempting, or threatening such harm with the appar-  
24 ent ability to complete the act, a child is likely to cause physical injury or  
25 physical abuse to another person.

26 (12) "Protection and advocacy system" means the agency designated by  
27 the governor as the state protection and advocacy system pursuant to 42  
28 U.S.C. 6042 and 42 U.S.C. 10801 et seq.

29 (13) "Serious emotional disturbance" means ~~an~~ a diagnostic and statis-  
30 tical manual of mental disorders (DSM) diagnosable mental health emotional  
31 or behavioral disorder, or a neuropsychiatric condition which results in a  
32 serious disability, and which requires sustained treatment interventions,  
33 and causes the child's functioning to be impaired in thought, perception,  
34 affect or behavior. A disorder shall be considered to "result in a serious  
35 disability" if it causes substantial impairment of functioning in family,  
36 school or community that is measured by and documented through the use of  
37 a standardized instrument conducted or supervised by a qualified clinician  
38 that is approved by the department. A substance abuse disorder does not, by  
39 itself, constitute a serious emotional disturbance, although it may coexist  
40 with serious emotional disturbance.

41 (14) "Special therapy" means any treatment modality used to treat chil-  
42 dren with serious emotional disturbances which is subject to restrictions or  
43 special conditions imposed by the department of health and welfare rules.

44 (15) "Surrogate parent" means any person appointed to act in the place  
45 of the parent of a child for purposes of developing an individual education  
46 program under the authority of the individuals with disabilities education  
47 act, 20 U.S.C. 1400 et seq., as amended.

48 (16) "Teens at risk" means individuals attending Idaho secondary pub-  
49 lic schools who have been identified as expressing or exhibiting indications  
50 of depression, suicidal inclination, emotional trauma, substance abuse or

1 other behaviors or symptoms that indicate the existence of, or that may lead  
2 to, the development of mental illness or substance abuse.

3 (17) "Treatment facility" means a facility or program meeting applica-  
4 ble licensing standards, that has been approved for the provisions of ser-  
5 vices under this chapter by the department of health and welfare.