

Proposed Amendments to the Idaho Juvenile Rule 16
Administrative Conference, April 2020

The following rule amendments are recommended by the Idaho Supreme Court's Child Protection Committee and Juvenile Justice Advisory Committee (JJAC) for approval by the Administrative Conference.

Proposed Amendment to I.J.R. 16. Expanding A Juvenile Corrections Act Proceeding To A Child Protective Act proceeding (J.C.A.)

Amends Idaho Juvenile Rule 16 to allow courts the option of ordering a screening team at any stage of a Juvenile Corrections Act (JCA) proceeding if the court has reasonable cause to believe that the juvenile "is neglected, abused, abandoned, homeless, or whose parent(s) or other legal custodian fails or is unable to provide a stable home environment..."

The purpose of a Rule 16 screening team is to develop a plan to safely meet the needs of the juvenile and the juvenile's family, based on all resources available to the family, and, when appropriate, to avoid expanding the case to a C.P.A. proceeding.

This process supports the implementation of the Family First Prevention Services Act of 2018, requiring communities and states to invest efforts into preventing removal of children from their homes for child protection and juvenile justice reasons.

Idaho Juvenile Rule 16. Investigate, Screen or Expand ~~Expanding A~~ Juvenile Corrections Act Proceeding To Child Protective Act proceeding (J.C.A.)

- (a) If at any stage of a J.C.A. proceeding the court has reasonable cause to believe that a juvenile living or found within the state is neglected, abused, abandoned, homeless, or whose parent(s) or other legal custodian fails or is unable to provide a stable home environment, as set forth in I.C. Section 16-1603, the court may:
- (1) direct the Department of Health and Welfare to investigate the circumstances of the juvenile and his or her family and report to the court as provided in ~~I.C. § 16-1616~~ their findings and recommendations;
 - (2) order a screening team to convene and report to the court as provided for in this rule; or
 - (3) order the proceeding expanded to a Child Protective Act (C.P.A.) proceeding. ~~or~~

~~Any~~ The order expanding the juvenile proceeding to a C.P.A. proceeding must be in writing, be case specific and contain the factual basis found by the court to support its order. The

order ~~shall~~will direct that copies of all court documents, studies, reports, evaluations, and other records in the court files, probation files, and juvenile corrections files relating to the juvenile/child be made available to the Department of Health and Welfare at its request and, if convened, the screening team.

- (b) The purpose of the screening team in section (a)(2) is to develop a plan to safely meet the needs of the juvenile and the juvenile's family, based on all resources available to the juvenile, juvenile's parents, guardians, or legal custodians and, when appropriate, to avoid expanding the case to a C.P.A. proceeding. The focus of the screening team is to assess the juvenile's safety in the juvenile's home, determine whether the juvenile's needs, including services and treatment, can be safely and appropriately addressed, preferably in the juvenile's home. The screening team will include the juvenile, the juvenile's parents, custodians or legal guardians; a representative from the county juvenile probation office; the Idaho Department of Juvenile Corrections; the Idaho Department of Health and Welfare's Child and Family Services, and Children's Mental Health programs. In addition, the screening team may include the Idaho Department of Health and Welfare's Children's Developmental Disabilities program, local school officials, and any other person or entity that the court or screening team deems appropriate. Participants will share information relevant to the purpose of the screening team. All such information will be maintained as confidential pursuant to Idaho Court Administrative Rule (I.C.A.R.) 32.
- (c) The screening team will consider a detailed history of the juvenile which will include, but not be limited to:
- (1) history of mental health issues or substance abuse treatment;
 - (2) the family's structure and dynamics;
 - (3) child protection history, including services and treatment provided by Family and Children Services and other departments of the Idaho Department of Health and Welfare;
 - (4) history of parental, guardian or legal custodian engagement in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior;
 - (5) the juvenile's academic performance and behavior in an educational setting;
 - (6) prior intervention and treatment efforts by the family or the community;
 - (7) prior offenses; and
 - (8) current and prior risk/need assessments.
- (d) The screening team will evaluate whether home or community-based programs or services can adequately address the risks, safety concerns, and needs identified by the screening

team. The screening team will determine whether in-home or community services exist to address the juvenile's identified needs or whether such services can be accessed in a setting to prevent placement in the custody of the Idaho Department of Health and Welfare. The screening team will identify and evaluate any barriers that may exist and may also evaluate the relative cost-effectiveness of any options considered. The screening team will employ a family centered approach. The screening team will consider the juvenile's and family's strengths and needs and evaluate the juvenile's and parents', guardians', or legal custodians' capacity to safely parent the child at home, with extended family, or another placement.

- (e) The county probation officer or other court designee will prepare a written report to the court summarizing the screening team's findings and recommendations. If the screening team does not reach consensus regarding its findings or recommendations, the written report will contain a summary of the different opinions regarding the juvenile's safety at home, risks, needs and recommendations. The written report will be presented to the court and be made available to the parties as directed by the court and may include a recommendation for a plan for the juvenile and family to comply with a court order that addresses family and juvenile needs.
- (f) ~~Upon expanding the proceeding to a C.P.A.~~If the court expands to a C.P.A. proceeding, the court may order the juvenile placed in shelter care under the C.P.A. if that is in the best interest of the juvenile and needed for the juvenile's protection. When the court orders that the juvenile be placed in shelter care pending a shelter care hearing, the court will make a finding that the juvenile was placed in shelter because continuation in the juvenile's present condition or surroundings would be contrary to the welfare of the juvenile and vesting legal custody of the juvenile with the Department of Health and Welfare is in the juvenile's best interest. If the juvenile is placed in shelter care, a shelter care hearing under the C.P.A. must be held within 48 hours, excluding Saturdays, Sundays, and holidays, and notice thereof shall be given to the juveniles parents(s), guardian, or custodian, and to the Department of Health and Welfare.
- (g) A copy of the order expanding a J.C.A. proceeding to a C.P.A. proceeding shall be given to the juvenile's parent(s), guardian, or custodian, the Idaho Department of Health and Welfare, the prosecuting attorney and other counsel of record, and the Department of Juvenile Corrections if the juvenile is currently under commitment to the Department, pursuant to these rules and the rules of civil procedure.

(h) No further C.P.A. petition will be required. A petition may be filed to include other children that come within the jurisdiction of the C.P.A. but who are not before the court under the Juvenile Corrections Act. Any petition must be filed 14 days before the date set for the adjudicatory hearing. Any adjudicatory hearing pursuant to [I.C. Section 16-1619](#) will be held within 30 days of the court's determination to expand the proceeding to a C.P.A. proceeding. A notice of the hearing will be served upon the parent(s), the Department of Health and Welfare, the juvenile, and the Department of Juvenile Corrections if the juvenile is currently under commitment to the Department, as though a petition under the C.P.A. has been filed. The burden of going forward with the evidence at the adjudicatory hearing shall remain with the prosecuting attorney.

(i) The proceeding under the J.C.A. will continue unless otherwise ordered by the court. The court may consolidate hearings under both the J.C.A. and the C.P.A. if the purposes of both acts can be served and the rights of the participants are not prejudiced.

(j) The Department of Juvenile Corrections shall have standing as an interested party in the child protective action if the juvenile is in the custody of the Department.

~~(g) Form of order expanding the Juvenile Correction Act proceeding to a Child Protective Act proceeding. The order expanding the Juvenile Correction Act proceeding to a Child Protective Act proceeding shall substantially conform to the following format:~~

~~(h) Form of order directing the Department of Health and Welfare to investigate. The order directing the Department of Health and Welfare to investigate the circumstances of the juvenile and his or her family shall substantially conform to the following:~~