

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 312

BY SCOTT

AN ACT

1 RELATING TO PARENTS AND CHILDREN; AMENDING SECTION 16-2005, IDAHO CODE, TO
2 PROVIDE THAT A COURT SHALL GRANT AN ORDER TERMINATING PARENTAL RIGHTS IF
3 CLEAR AND CONVINCING EVIDENCE ESTABLISHES THAT THE CHILD WAS CONCEIVED
4 AS A RESULT OF CERTAIN SEX CRIMES AND TO MAKE TECHNICAL CORRECTIONS;
5 AMENDING SECTION 16-2011, IDAHO CODE, TO PROVIDE THAT AN ORDER TERMI-
6 NATING PARENTAL RIGHTS UNDER CERTAIN CIRCUMSTANCES SHALL NOT RELIEVE
7 A PERSON OF THE OBLIGATION TO PAY CHILD SUPPORT; AMENDING SECTION
8 16-1504, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SEC-
9 TION 16-1506, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO
10 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1513, IDAHO CODE, TO
11 PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY.
12

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

14 SECTION 1. That Section 16-2005, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. (1) The
17 court may grant an order terminating the relationship where it finds that
18 termination of parental rights is in the best interests of the child and that
19 one (1) or more of the following conditions exist:

20 (a) The parent has abandoned the child.

21 (b) The parent has neglected or abused the child.

22 (c) The presumptive parent is not the biological parent of the child.

23 (d) The parent is unable to discharge parental responsibilities and
24 such inability will continue for a prolonged indeterminate period and
25 will be injurious to the health, morals or well-being of the child.

26 (e) The parent has been incarcerated and is likely to remain incarcer-
27 ated for a substantial period of time during the child's minority.

28 (2) If clear and convincing evidence establishes that a parent caused
29 a child to be conceived as a result of rape, incest, lewd conduct with a mi-
30 nor child under the age of sixteen (16) years, or sexual abuse of a child un-
31 der the age of sixteen (16) years, as defined in sections 18-6101, 18-1508,
32 18-1506, and 18-6601, Idaho Code, then the court shall grant an order termi-
33 nating the relationship between such parent and the child.

34 ~~(2) (3)~~ The court may grant an order terminating the relationship and
35 may rebuttably presume that such termination of parental rights is in the
36 best interests of the child where:

37 ~~(a) The parent caused the child to be conceived as a result of rape,~~
38 ~~incest, lewd conduct with a minor child under the age of sixteen (16)~~
39 ~~years, or sexual abuse of a child under the age of sixteen (16) years, as~~
40 ~~defined in sections 18-6101, 18-1508, 18-1506, and 18-6601, Idaho Code;~~
41 ~~(b) (a)~~ The following circumstances are present:

1 (i) Abandonment, chronic abuse or chronic neglect of the child.
2 Chronic neglect or chronic abuse of a child shall consist of abuse
3 or neglect that is so extreme or repetitious as to indicate con-
4 tinuing the relationship would result in unacceptable risk to the
5 health and welfare of the child;

6 (ii) Sexual abuse against a child of the parent. Sexual abuse, for
7 the purposes of this section, includes any conduct described in
8 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,
9 or 18-6604, Idaho Code;

10 (iii) Torture of a child; any conduct described in the code sec-
11 tions listed in section 18-8303(1), Idaho Code; battery or an
12 injury to a child that results in serious or great bodily in-
13 jury to a child; voluntary manslaughter of a child, or aiding or
14 abetting such voluntary manslaughter, soliciting such voluntary
15 manslaughter or attempting or conspiring to commit such voluntary
16 manslaughter;

17 (iv) The parent has committed murder, aided or abetted a murder,
18 solicited a murder or attempted or conspired to commit murder; or

19 ~~(e)~~ (b) The court determines the child to be an abandoned infant, except
20 in a parental termination action brought by one (1) parent against an-
21 other parent.

22 ~~(3)~~ (4) The court may grant an order terminating the relationship if
23 termination is found to be in the best interest of the parent and child.

24 ~~(4)~~ (5) The court may grant an order terminating the relationship where
25 a consent to termination in the manner and form prescribed by this chapter
26 has been filed by the parent~~(s)~~ or parents of the child in conjunction with a
27 petition for adoption initiated by the person or persons proposing to adopt
28 the child, ~~or where~~ . Where the consent to termination has been filed by a
29 licensed adoption agency, no subsequent hearing on the merits of the peti-
30 tion shall be held. Consents required by this chapter must be witnessed by a
31 district judge or magistrate of a district court, or equivalent judicial of-
32 ficer of the state, where a person consenting resides or is present, whether
33 within or without the county, and shall be substantially in the following
34 form:

35 IN THE DISTRICT COURT OF THE.... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
36 AND FOR THE COUNTY OF....

37 In the Matter of the termination)
38 of the parental rights of)
39)
40)

41 I (we), the undersigned, being the.... of...., do hereby give my (our)
42 full and free consent to the complete and absolute termination of my (our)
43 parental right(s), to the said...., who was born...., unto...., hereby
44 relinquishing completely and forever, all legal rights, privileges, du-
45 ties and obligations, including all rights of inheritance to and from the
46 said...., and I (we) do hereby expressly waive my (our) right(s) to hear-
47 ing on the petition to terminate my (our) parental relationship with the
48 said...., and respectfully request the petition be granted.

49 DATED:....., 20..

1
 2 STATE OF IDAHO)
 3) ss.
 4 COUNTY OF....)

5 On this.... day of...., 20.., before me, the undersigned....,....
 6 (Judge or Magistrate) of the District Court of the.... Judicial District of
 7 the state of Idaho, in and for the county of...., personally appeared....,
 8 known to me (or proved to me on the oath of....) to be the person(s) whose
 9 name(s) is (are) subscribed to the within instrument, and acknowledged to me
 10 that he (she, they) executed the same.

11 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
 12 seal the day and year in this certificate first above written.
 13 (District Judge or Magistrate)

14 ~~(5)~~ (6) The court shall accept a consent or a surrender and release exe-
 15 cuted in another state if:

16 (a) It is witnessed by a magistrate or district judge of the state where
 17 signed; or

18 (b) The court receives an affidavit or a certificate from a court of
 19 comparable jurisdiction stating that the consent or the surrender and
 20 release was executed in accordance with the laws of the state in which it
 21 was executed, or the court is satisfied by other showing that the con-
 22 sent or surrender and release was executed in accordance with the laws
 23 of the state in which it was executed.

24 ~~(6)~~ (7) The court shall accept a termination or relinquishment from a
 25 sister state that has been ordered by a court of competent jurisdiction under
 26 like proceedings; or in any other manner authorized by the laws of a sister
 27 state. In a state where the father has failed to file notice of claim to pa-
 28 ternity and willingness to assume responsibility as provided for pursuant to
 29 the laws of such state, and where such failure constitutes an abandonment of
 30 such child and constitutes a termination or relinquishment of the rights of
 31 the putative father, the court shall accept such failure as a termination in
 32 this state without further hearing on the merits, if the court is satisfied
 33 that such failure constitutes a termination or relinquishment of parental
 34 rights pursuant to the laws of that state.

35 ~~(7)~~ (8) Unless a consent to termination signed by the parent~~(s)~~ or par-
 36 ents of the child has been filed by an adoption agency licensed in the state
 37 of Idaho, or unless the consent to termination was filed in conjunction with
 38 a petition for adoption of the child, the court shall hold a hearing.

39 ~~(8)~~ (9) If the parent has a disability, as defined in this chapter, the
 40 parent shall have the right to provide evidence to the court regarding the
 41 manner in which the use of adaptive equipment or supportive services will
 42 enable the parent to carry out the responsibilities of parenting the child.
 43 Nothing in this section shall be construed to create any new or additional
 44 obligation on state or local governments to purchase or provide adaptive
 45 equipment or supportive services for parents with disabilities.

46 SECTION 2. That Section 16-2011, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

1 16-2011. EFFECT OF DECREE. (1) Except as provided in subsection (2)
 2 of this section, an An order terminating the parent and child relationship
 3 shall divest the parent and the child of all legal rights, privileges, du-
 4 ties, and obligations, including rights of inheritance, with respect to each
 5 other.

6 (2) If the parent and child relationship is terminated pursuant to sec-
 7 tion 16-2005(2), Idaho Code, then the order terminating the parent and child
 8 relationship shall not relieve a person of the obligation to pay child sup-
 9 port, and a child support obligation shall be determined as if that person is
 10 a parent.

11 SECTION 3. That Section 16-1504, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption of a
 14 child is required from:

15 (a) The adoptee, if he is more than twelve (12) years of age, unless he
 16 does not have the mental capacity to consent;

17 (b) Both parents or the surviving parent of an adoptee who was conceived
 18 or born within a marriage;

19 (c) The mother of an adoptee born outside of marriage;

20 (d) Any biological parent who has been adjudicated to be the child's
 21 biological father by a court of competent jurisdiction prior to the
 22 mother's execution of consent;

23 (e) An unmarried biological father of an adoptee only if the require-
 24 ments and conditions of subsection (3) (a) or (b) of this section have
 25 been proven;

26 (f) Any legally appointed custodian or guardian of the adoptee;

27 (g) The adoptee's spouse, if any;

28 (h) An unmarried biological father who has filed a voluntary acknowl-
 29 edgment of paternity with the vital statistics unit of the department of
 30 health and welfare pursuant to section 7-1106, Idaho Code; and

31 (i) The father of an illegitimate child who has adopted the child by ac-
 32 knowledgment.

33 (2) Consent to adoption of an adult is required from:

34 (a) The adoptee, or the guardian or conservator of an incapacitated
 35 adoptee, if a guardian or conservator has been appointed; and

36 (b) The adoptee's spouse, if any.

37 (3) In accordance with subsection (1) of this section, the consent of
 38 an unmarried biological father is necessary only if the father has strictly
 39 complied with all requirements of this section.

40 (a) (i) With regard to a child who is placed with adoptive parents more
 41 than six (6) months after birth, an unmarried biological father
 42 shall have developed a substantial relationship with the child,
 43 taken some measure of responsibility for the child and the child's
 44 future, and demonstrated a full commitment to the responsibili-
 45 ties of parenthood by financial support of the child, of a fair and
 46 reasonable sum and in accordance with the father's ability, when
 47 not prevented from doing so by the person or authorized agency hav-
 48 ing lawful custody of the child, and either:

1 1. Visiting the child at least monthly when physically and
2 financially able to do so, and when not prevented from doing
3 so by the person or authorized agency having lawful custody
4 of the child; or

5 2. Having regular communication with the child or with the
6 person or agency having the care or custody of the child,
7 when physically and financially unable to visit the child,
8 and when not prevented from doing so by the person or autho-
9 rized agency having lawful custody of the child.

10 (ii) The subjective intent of an unmarried biological father,
11 whether expressed or otherwise, unsupported by evidence of acts
12 specified in this subsection shall not preclude a determination
13 that the father failed to meet any one (1) or more of the require-
14 ments of this subsection.

15 (iii) An unmarried biological father who openly lived with the
16 child for a period of six (6) months within the one (1) year period
17 after the birth of the child and immediately preceding placement
18 of the child with adoptive parents, and who openly held himself out
19 to be the father of the child during that period, shall be deemed
20 to have developed a substantial relationship with the child and to
21 have otherwise met all of the requirements of this subsection.

22 (b) With regard to a child who is under six (6) months of age at the
23 time he is placed with adoptive parents, an unmarried biological father
24 shall have manifested a full commitment to his parental responsibil-
25 ities by performing all of the acts described in this subsection and
26 prior to the date of the filing of any proceeding to terminate the
27 parental rights of the birth mother; the filing of any proceeding to
28 adopt the child; or the execution of a consent to terminate the birth
29 mother's parental rights under the provisions of section 16-2005(45),
30 Idaho Code, whichever occurs first. The father shall have strictly com-
31 plied with all of the requirements of this subsection by:

32 (i) Filing proceedings to establish paternity under section
33 7-1111, Idaho Code, and filing with that court a sworn affidavit
34 stating that he is fully able and willing to have full custody of
35 the child, setting forth his plans for the care of the child, and
36 agreeing to a court order of child support and the payment of ex-
37 penses incurred in connection with the mother's pregnancy and the
38 child's birth;

39 (ii) Filing a notice of the proceedings to establish his paternity
40 of the child with the vital statistics unit of the department of
41 health and welfare pursuant to section 16-1513, Idaho Code; and

42 (iii) If he had actual knowledge of the pregnancy, paying a fair
43 and reasonable amount of the expenses incurred in connection with
44 the mother's pregnancy and the child's birth, in accordance with
45 his means, and when not prevented from doing so by the person or
46 authorized agency having lawful custody of the child.

47 (4) An unmarried biological father whose consent is required under sub-
48 section (1) or (3) of this section may nevertheless lose his right to consent
49 if the court determines, in accordance with the requirements and procedures
50 of the termination of parent and child relationship act, sections 16-2001

1 through 16-2015, Idaho Code, that his rights should be terminated, based on
2 the petition of any party as set forth in section 16-2004, Idaho Code.

3 (5) In any adoption proceeding pertaining to a child born out of wed-
4 lock, if there is no showing that an unmarried biological father has con-
5 sented to or waived his rights regarding a proposed adoption, the petitioner
6 shall file with the court a certificate from the vital statistics unit of the
7 department of health and welfare, signed by the state registrar of vital sta-
8 tistics, stating that a diligent search has been made of the registry of no-
9 tices from putative fathers, of a child born out of wedlock, and that the pu-
10 tative father involved has not filed notice of the proceedings to establish
11 his paternity or, if a filing is found, stating the name of the putative fa-
12 ther and the time and date of filing. That certificate shall be filed with
13 the court prior to the entrance of the final decree of adoption.

14 (6) An unmarried biological father who does not fully and strictly com-
15 pply with each of the conditions provided in this section is deemed to have
16 waived and surrendered any right in relation to the child, including the
17 right to notice of any judicial proceeding in connection with the adoption of
18 the child, or for termination of parental rights and his consent to the adop-
19 tion of the child is not required unless he proves, by clear and convincing
20 evidence, all of the following:

21 (a) It was not possible for him, prior to the filing of a proceeding to
22 terminate parental rights of the birth mother; the filing of any pro-
23 ceeding to adopt the child; or the execution of a consent to terminate
24 the birth mother's parental rights under the provisions of section
25 16-2005(45), Idaho Code, whichever occurs first, to:

26 (i) Commence proceedings to establish paternity of his child in
27 accordance with section 7-1111, Idaho Code; and

28 (ii) File notice of the filing of proceedings to establish his
29 paternity of the child with the vital statistics unit of the de-
30 partment of health and welfare in accordance with section 16-1513,
31 Idaho Code;

32 (b) His failure to timely file notice of the filing of proceedings to
33 establish his paternity of the child with the vital statistics unit
34 of the department of health and welfare in accordance with section
35 16-1513, Idaho Code, and his failure to commence timely proceedings to
36 establish paternity of his child in accordance with section 7-1111,
37 Idaho Code, were through no fault of his own; and

38 (c) He filed notice of the filing of proceedings to establish pater-
39 nity of his child in accordance with section 7-1111, Idaho Code, with
40 the vital statistics unit of the department of health and welfare in ac-
41 cordance with section 16-1513, Idaho Code, and filed proceedings to es-
42 tablish his paternity of the child within ten (10) days after the birth
43 of the child. Lack of knowledge of the pregnancy is not an acceptable
44 reason for his failure to timely file notice of the commencement of pro-
45 ceedings or for his failure to commence timely proceedings.

46 (7) A minor parent has the power to consent to the adoption of his or her
47 child. That consent is valid and has the same force and effect as a consent
48 executed by an adult parent. A minor parent, having executed a consent, can-
49 not revoke that consent upon reaching the age of majority or otherwise becom-
50 ing emancipated.

1 (8) No consent shall be required of, nor notice given to, any person
2 whose parental relationship to such child shall have been terminated in
3 accordance with the provisions of either chapter 16 or 20, title 16, Idaho
4 Code, or by a court of competent jurisdiction of a sister state under like
5 proceedings, or in any other manner authorized by the laws of a sister state.
6 Where a voluntary child placement agency licensed by the state in which it
7 does business is authorized to place a child for adoption and to consent
8 to such child's adoption under the laws of such state, the consent of such
9 agency to the adoption of such child in a proceeding within the state of Idaho
10 shall be valid and no further consents or notices shall be required.

11 (9) The legislature finds that an unmarried biological father who re-
12 sides in another state may not, in every circumstance, be reasonably pre-
13 sumed to know of and strictly comply with the requirements of this chapter.
14 Therefore, when all of the following requirements have been met, that unmar-
15 ried biological father may contest an adoption prior to finalization of the
16 decree of adoption and assert his interest in the child:

17 (a) The unmarried biological father resides and has resided in another
18 state where the unmarried mother was also located or resided;

19 (b) The mother left that state without notifying or informing the un-
20 married biological father that she could be located in the state of
21 Idaho;

22 (c) The unmarried biological father has, through every reasonable
23 means, attempted to locate the mother but does not know or have reason to
24 know that the mother is residing in the state of Idaho; and

25 (d) The unmarried biological father has complied with the most strin-
26 gent and complete requirements of the state where the mother previously
27 resided or was located in order to protect and preserve his parental in-
28 terest and rights in the child in cases of adoption.

29 (10) An unmarried biological father may, under the provisions of sec-
30 tion 7-1107, Idaho Code, file a proceeding to establish his paternity prior
31 to the birth of the child; however, such paternity proceeding must be filed
32 prior to the date of the filing of any proceeding to terminate parental
33 rights of the birth mother; the filing of any proceeding to adopt the child;
34 or the execution of a consent to terminate the birth mother's parental rights
35 under the provisions of section 16-2005(45), Idaho Code, whichever occurs
36 first.

37 SECTION 4. That Section 16-1506, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child
40 shall be commenced by the filing of a petition together with a copy thereof.
41 The petition shall be initiated by the person or persons proposing to adopt
42 the child and shall be filed with the district court of the county in which
43 said person or persons reside. If the adoption arises from a child protec-
44 tive act case, the petition shall be filed in the court having jurisdiction
45 over the child protective act case unless that court relinquishes jurisdic-
46 tion over the adoption proceeding. The petitioners shall have resided and
47 maintained a dwelling within the state of Idaho for at least six (6) consec-
48 utive months prior to the filing of a petition. The petition shall set forth
49 the name and address of the petitioner or petitioners, the name of the child

1 proposed to be adopted and the name by which the person to be adopted shall be
2 known if and when adopted, the degree of relationship of the child, if any,
3 to the petitioner or petitioners and the names of any person or agency whose
4 consent to said adoption is necessary. At the time fixed for hearing such
5 petition, the person adopting a child, ~~and~~ the child adopted, and the spouse
6 of the petitioner if a natural parent of the child, ~~must~~ appear before the
7 court of the county wherein the petition was filed. The petitioner shall at
8 such time execute an agreement to the effect that the child shall be adopted
9 and treated in all respects as his own lawful child should be treated.

10 (2) If the adoption arises from a child protective act case, then, in
11 addition to the petition filed pursuant to subsection (1) of this section,
12 the department of health and welfare shall file the permanency plan prepared
13 pursuant to section 16-1620 or 16-1622, Idaho Code, associated with the
14 child protective act case. If the court determines that the person proposing
15 to adopt the child is not the proposed adoptive parent named in the perma-
16 nency plan, then the judge shall stay the proceeding pending the department
17 preparing and filing an amended permanency plan pursuant to section 16-1620
18 or 16-1622, Idaho Code, and the approval of the amended permanency plan by
19 the judge presiding over the child protective act proceeding.

20 (3) Any person or persons whose consent is required shall execute such
21 consent in writing, in a form consistent with the provisions of section
22 16-2005(45), Idaho Code, which consent being filed in the court where the
23 application is made, shall be deemed a sufficient appearance on the part of
24 such person or persons. If any adoptive parent, or a person not a minor being
25 adopted by a resident adult under the provisions of section 16-1501, Idaho
26 Code, is a member of the armed services and is unable to attend the hearing,
27 his appearance and testimony shall be received by means of deposition, which
28 shall be filed in the court at the time of the hearing.

29 (4) Prior to the placement for adoption of any child in the home of
30 prospective adoptive parents, it shall be required that a thorough social
31 investigation of the prospective adoptive family and all of its members,
32 consistent with the rules regarding such investigations promulgated by the
33 department of health and welfare, shall be completed and that a positive rec-
34 ommendation for adoptive placement shall have been made. The social inves-
35 tigation may be performed by any individual who meets the requirements of the
36 law. A copy of the study must be submitted to the department and the depart-
37 ment may impose a reasonable fee, not to exceed fifty dollars (\$50.00), for
38 oversight of such privately conducted studies. If the prospective adoptive
39 parent has a disability as defined in this chapter, the prospective adoptive
40 parent shall have the right, as a part of the social study, to provide infor-
41 mation regarding the manner in which the use of adaptive equipment or sup-
42 portive services will enable the parent to carry out the responsibilities of
43 parenting the child. The person performing the social investigation shall
44 advise the prospective adoptive parent of such right and shall consider all
45 such information in any findings or recommendations. The social investiga-
46 tion of any prospective adoptive parent with a disability shall be conducted
47 by, or with the assistance of, an individual with expertise in the use of such
48 equipment and services. Nothing in this chapter shall be construed to create
49 any new or additional obligation on state or local governments to purchase or
50 provide adaptive equipment or supportive services for parents with disabil-

1 ities. In those instances where the prospective adoptive parent is married
2 to the birth parent or is the grandparent of the child to be adopted, such
3 social investigation shall be completed with regard to the prospective adop-
4 tive parent only upon order of the court. In exigent circumstances where the
5 prospective adoptive parents are determined by the court to have been unable
6 to complete a social investigation of the family with a positive recommenda-
7 tion prior to the time the child is placed in the home, the child shall remain
8 in the home unless the court determines the best interests of the child are
9 served by other placement. If exigent circumstances exist, a social inves-
10 tigation shall be initiated within five (5) days of placement. Once initi-
11 ated, all studies shall be completed within sixty (60) days. Upon the filing
12 of a petition to adopt a minor child by a person unrelated to the child or
13 unmarried to a natural parent of the child and at the discretion of the court
14 upon the filing of any other petition for adoption, a copy of such petition,
15 together with a statement containing the full names and permanent addresses
16 of the child and the petitioners, shall be served by the court receiving the
17 petition within five (5) days on the director of the department of health and
18 welfare by registered mail or personal service. If no private investigation
19 is conducted, it shall then be the duty of the said director, through the per-
20 sonnel of the department or through such qualified child-placing children's
21 adoption agency incorporated under chapter 30, title 30, Idaho Code, as the
22 director may designate, to verify the allegations of the petition, and, as
23 soon as possible not exceeding thirty (30) days after service of the petition
24 on the director, to make a thorough investigation of the matter to include
25 in all cases information as to the alleged date and place of birth and as to
26 parentage of the child to be adopted as well as the source of all such infor-
27 mation and to report his findings in writing to the court. The investigative
28 report shall include reasonably known or available medical and genetic in-
29 formation regarding both natural parents and sources of such information as
30 well as reasonably known or available providers of medical care and services
31 to the natural parents. A copy of all medical and genetic information com-
32 piled in the investigation shall be made available to the adopting family by
33 the department or other investigating children's adoption agency prior to
34 entry of the final order of adoption. The petition, statement and all other
35 papers, records or files relating to the adoption, including the preplace-
36 ment investigation and recommendation, shall be returned to the court with
37 the investigative report. The department of health and welfare or other
38 children's adoption agency may require the petitioner to pay all or any part
39 of the costs of the investigation. If the report disapproves of the adoption
40 of the child, motion may be made to the court to dismiss the petition.

41 (5) Proceedings for termination of parent-child relationship in accor-
42 dance with chapter 20, title 16, Idaho Code, and proceedings for adoption may
43 be consolidated and determined at one (1) hearing provided that all of the
44 requirements of this chapter as well as chapter 20, title 16, Idaho Code, be
45 fully complied with. Nothing in either chapter shall be construed as lim-
46 iting the initiation of any petition for approval of a verified financial
47 plan for adoption expenses pursuant to section 18-1511, Idaho Code, prior
48 to the birth of the child ~~which~~ who is the subject of any adoption proceed-
49 ing. In all disputed matters under this chapter or chapter 20, title 16,

1 Idaho Code, the paramount criterion for consideration and determination by
2 the court shall be the best interests of the child.

3 (6) Proceedings for the adoption of an adult shall be as provided in
4 subsection (1) of this section and any consents required shall be executed
5 as provided in subsection (3) of this section. Upon a finding by the court
6 that the consent of all persons for whom consent is required has been given
7 and that the requirements of section 16-1501, Idaho Code, have been proven
8 to the satisfaction of the court, the court shall enter an order granting the
9 adoption. In cases where the adult proposed to be adopted is incapacitated
10 or disabled, the court may require that an investigation be performed. The
11 form and extent of the investigation to be undertaken may be as provided in
12 subsection (4) of this section, or as otherwise ordered by the court. If an
13 investigation is performed, the court must review and approve the findings
14 of the investigation before issuing an order approving the adoption.

15 SECTION 5. That Section 16-1513, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 16-1513. REGISTRATION OF NOTICE AND FILING OF PATERNITY PROCEED-
18 INGS. (1) A person who is the father or claims to be the father of a child
19 born out of wedlock may claim rights pertaining to his paternity of the child
20 by commencing proceedings to establish paternity under section 7-1111,
21 Idaho Code, and by filing with the vital statistics unit of the department
22 of health and welfare notice of his filing of proceedings to establish his
23 paternity of the child born out of wedlock. The vital statistics unit of
24 the department of health and welfare shall provide forms for the purpose of
25 filing the notice of filing of paternity proceedings, and the forms shall
26 be made available through the vital statistics unit of the Idaho department
27 of health and welfare and in the office of the county clerk in every county
28 of this state. The forms shall include a written notification that filing
29 pursuant to this section shall not satisfy the requirements of chapter 82,
30 title 39, Idaho Code, and the notification shall also include the following
31 statements:

32 (a) A parent may make a claim of parental rights of an abandoned child,
33 abandoned pursuant to the provisions of chapter 82, title 39, Idaho
34 Code, as provided by section 39-8206, Idaho Code, by filing a notice of
35 claim of parental rights with the vital statistics unit of the depart-
36 ment of health and welfare on a form as prescribed and provided by the
37 vital statistics unit of the department of health and welfare;

38 (b) The vital statistics unit of the department of health and welfare
39 shall maintain a separate registry for claims to abandoned children,
40 abandoned pursuant to the provisions of chapter 82, title 39, Idaho
41 Code;

42 (c) The department shall provide forms for the purpose of filing a claim
43 of parental rights of an abandoned child, abandoned pursuant to the pro-
44 visions of chapter 82, title 39, Idaho Code, and the forms shall be made
45 available through the vital statistics unit of the Idaho department of
46 health and welfare and in the office of the county clerk in every county
47 of this state;

48 (d) To be valid, a claim of parental rights of an abandoned child, aban-
49 doned pursuant to the provisions of chapter 82, title 39, Idaho Code,

1 must be filed before an order terminating parental rights is entered by
2 the court. A parent that fails to file a claim of parental rights prior
3 to entry of an order terminating their parental rights is deemed to have
4 abandoned the child and waived and surrendered any right in relation to
5 the child, including the right to notice of any judicial proceeding in
6 connection with the termination of parental rights or adoption of the
7 child;

8 (e) Registration of notice of filing of paternity proceedings pursuant
9 to chapter 15, title 16, Idaho Code, shall not satisfy the requirements
10 of chapter 82, title 39, Idaho Code. To register a parental claim to
11 an abandoned child, abandoned pursuant to the provisions of chapter 82,
12 title 39, Idaho Code, an individual must file an abandoned child reg-
13 istry claim with the vital statistics unit of the department of health
14 and welfare and comply with all other provisions of chapter 82, title
15 39, Idaho Code, in the time and manner prescribed, in order to preserve
16 parental rights to the child.

17 When filing a notice of the filing of paternity proceedings, a person
18 who claims to be the father of a child born out of wedlock shall file with the
19 vital statistics unit of the department of health and welfare the completed
20 form prescribed by the vital statistics unit of the department of health
21 and welfare. Said form will be filled out completely, signed by the person
22 claiming paternity, and witnessed before a notary public.

23 (2) The notice of the filing of paternity proceedings may be filed prior
24 to the birth of the child, but must be filed prior to the date of the filing
25 of any proceeding to terminate the parental rights of the birth mother. The
26 notice of the filing of paternity proceedings shall be signed by the person
27 filing the notice and shall include his name and address, the name and last
28 address of the mother, and either the birth date of the child or the probable
29 month and year of the expected birth of the child. The vital statistics unit
30 of the department of health and welfare shall maintain a central registry for
31 this purpose that shall be subject to disclosure according to chapter 1, ti-
32 tle 74, Idaho Code. The department shall record the date and time the no-
33 tice of the filing of proceedings is filed with the department. The notice
34 shall be deemed to be duly filed with the department as of the date and time
35 recorded on the notice by the department.

36 (3) If the unmarried biological father does not know the county in which
37 the birth mother resides, he may initiate his action in any county, subject
38 to a change in venue.

39 (4) Except as provided in section 16-1504(6), Idaho Code, any father
40 of a child born out of wedlock who fails to file and register his notice of
41 the commencement of paternity proceedings pursuant to section 7-1111, Idaho
42 Code, prior to the date of the filing of any proceeding to terminate the
43 parental rights of the birth mother; the filing of any proceeding to adopt
44 the child; or the execution of a consent to terminate the birth mother's
45 parental rights under the provisions of section 16-2005(45), Idaho Code,
46 whichever occurs first, is deemed to have waived and surrendered any right
47 in relation to the child and of any notice to proceedings for adoption of the
48 child or for termination of parental rights of the birth mother. His consent
49 to the adoption of the child shall not be required and he shall be barred from
50 thereafter bringing or maintaining any action to establish his paternity of

1 the child. Failure of such filing or registration shall constitute an aban-
2 donment of said child and shall constitute an irrevocable implied consent in
3 any adoption or termination proceeding.

4 (5) The filing and registration of an unrevoked notice of the commence-
5 ment of paternity proceedings by a putative father shall constitute prima
6 facie evidence of the fact of his paternity in any contested proceeding under
7 chapter 11, title 7, Idaho Code. The filing of a notice of the commencement
8 of paternity proceedings shall not be a bar to an action for termination of
9 his parental rights under chapter 20, title 16, Idaho Code.

10 (6) An unmarried biological father of a child born out of wedlock who
11 has filed and registered a notice of the filing of paternity proceedings may
12 at any time revoke notice of intent to claim paternity previously filed.
13 Upon receipt of written revocation, the effect shall be as if no notice of the
14 filing of paternity proceedings had been filed or registered.

15 (7) In any adoption proceeding pertaining to a child born out of wed-
16 lock, if there is no showing that the putative father has consented to the
17 adoption, a certificate shall be obtained from the vital statistics unit of
18 the department of health and welfare, signed by the state registrar of vital
19 statistics, which certificate shall state that a diligent search has been
20 made of the registry of notices from putative fathers, and that no filing has
21 been found pertaining to the father of the child in question, or if a fil-
22 ing is found, stating the name of the putative father and the time and date
23 of filing. That certificate shall be filed with the court prior to entry of a
24 final decree of adoption.

25 (8) Identities of putative fathers can only be released pursuant to
26 procedures contained in chapter 1, title 74, Idaho Code.

27 (9) To cover the cost of implementing and maintaining said central
28 registry, the vital statistics unit of the department of health and welfare
29 shall charge a filing fee of ten dollars (\$10.00) at the time the putative
30 father files his notice of his commencement of proceedings. The department
31 shall also charge a reasonable fee to cover all costs incurred in a search
32 of the Idaho putative father registry and for furnishing a certificate in
33 accordance with the provisions of this section and section 16-1504, Idaho
34 Code. It is the intent of the legislature that the fee shall cover all direct
35 and indirect costs incurred pursuant to this section and section 16-1504,
36 Idaho Code. The department shall annually review the fees and expenses in-
37 curred pursuant to administering the provisions of this section and section
38 16-1504, Idaho Code.

39 (10) Consistent with its authority denoted in the vital statistics act,
40 section 39-242(c), Idaho Code, the board of health and welfare shall adopt,
41 amend and repeal rules for the purpose of carrying out the provisions of this
42 section.

43 (11) The department shall produce and distribute, within the limits
44 of continuing annual appropriations duly made available to the department
45 by the legislature for such purposes, a pamphlet or publication informing
46 the public about the Idaho putative father registry, printed in English and
47 Spanish. The pamphlet shall indicate the procedures to be followed in or-
48 der to receive notice of any proceeding for the adoption of a child that an
49 unmarried biological father claims to have fathered and of any proceeding
50 for termination of his parental rights, voluntary acknowledgment of pater-

1 nity, the consequences of acknowledgment of paternity, the consequences
2 of failure to acknowledge paternity and the address of the Idaho putative
3 father registry. Within the limits of continuing annual appropriations
4 duly made available to the department by the legislature for such purposes,
5 such pamphlets or publications shall be made available for distribution
6 to the public at all offices of the department of health and welfare. Upon
7 request, the department shall also provide such pamphlets or publications
8 to hospitals, libraries, medical clinics, schools, colleges, universities,
9 providers of child-related services and children's agencies licensed in the
10 state of Idaho or advertising services in the state of Idaho.

11 (12) Within the limits of continuing annual appropriations duly made
12 available to the department by the legislature for such purposes, each
13 county clerk, branch office of the department of motor vehicles, all of-
14 fices of the department of health and welfare, hospitals and local health
15 districts shall post in a conspicuous place a notice that informs the public
16 about the purpose and operation of the Idaho putative father registry. The
17 notice must include information regarding the following:

18 (a) Where to obtain a registration form;

19 (b) Where to register;

20 (c) The procedures to follow in order to file proceedings to establish
21 paternity of a child born out of wedlock;

22 (d) The consequences of a voluntary acknowledgment of paternity; and

23 (e) The consequences of failure to acknowledge paternity.

24 (13) The department shall host on the department's web page a public
25 service announcement (PSA) informing the public about the Idaho putative
26 father registry, printed in English and Spanish. The PSA shall indicate
27 the procedures to be followed in order to receive notice of any proceeding
28 for the adoption of a child that an unmarried biological father claims to
29 have fathered and of any proceeding for termination of his parental rights,
30 voluntary acknowledgment of paternity, the consequences of acknowledgment
31 of paternity, the consequences of failure to acknowledge paternity and the
32 address of the Idaho putative father registry.

33 (14) Failure to post a proper notice under the provisions of this sec-
34 tion does not relieve a putative father of the obligation to file notice
35 of the filing of proceedings to establish his paternity pursuant to this
36 section or to commence proceedings to establish paternity pursuant to sec-
37 tion 7-1111, Idaho Code, prior to the filing of any proceeding to terminate
38 parental rights of the birth mother.

39 (15) A person who knowingly or intentionally falsely files or registers
40 as a putative father is guilty of a misdemeanor.

41 SECTION 6. An emergency existing therefor, which emergency is hereby
42 declared to exist, this act shall be in full force and effect on and after its
43 passage and approval.