

IN THE SENATE

SENATE BILL NO. 1029

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO JUVENILE PROCEEDINGS; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE,  
2 BY THE ADDITION OF A NEW SECTION 16-1618A, IDAHO CODE, TO PROHIBIT AN IN-  
3 VESTIGATION BASED UPON A CHILD'S IMMUNIZATION STATUS; AMENDING SECTION  
4 16-2005, IDAHO CODE, TO PROVIDE THAT A COURT SHALL NOT GRANT AN ORDER  
5 TERMINATING A PARENT AND CHILD RELATIONSHIP BASED UPON A CHILD'S IMMUNIZATION STATUS;  
6 AMENDING SECTION 16-1504, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES;  
7 AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE;  
8 AMENDING SECTION 16-1513, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE;  
9 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
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12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Chapter 16, Title 16, Idaho Code, be, and the same is  
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
15 ignated as Section 16-1618A, Idaho Code, and to read as follows:

16 16-1618A. INVESTIGATION BASED UPON IMMUNIZATION STATUS PROHIB-  
17 ITED. No investigation may be conducted pursuant to this chapter if it is  
18 based upon a child's immunization status.

19 SECTION 2. That Section 16-2005, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. (1) The  
22 court may grant an order terminating the relationship where it finds that  
23 termination of parental rights is in the best interests of the child and that  
24 one (1) or more of the following conditions exist:

- 25 (a) The parent has abandoned the child.  
26 (b) The parent has neglected or abused the child.  
27 (c) The presumptive parent is not the biological parent of the child.  
28 (d) The parent is unable to discharge parental responsibilities and  
29 such inability will continue for a prolonged indeterminate period and  
30 will be injurious to the health, morals or well-being of the child.  
31 (e) The parent has been incarcerated and is likely to remain incarcer-  
32 ated for a substantial period of time during the child's minority.

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

- 36 (a) The parent caused the child to be conceived as a result of rape,  
37 incest, lewd conduct with a minor child under the age of sixteen (16)  
38 years, or sexual abuse of a child under the age of sixteen (16) years, as  
39 defined in sections 18-6101, 18-1508, 18-1506, and 18-6601, Idaho Code;  
40 (b) 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 (c) The court determines the child to be an abandoned infant, except in  
20 a parental termination action brought by one (1) parent against another  
21 parent.

22 (3) The court shall not grant an order terminating the relationship  
23 based upon the child's immunization status.

24 ~~(3)~~ (4) The court may grant an order terminating the relationship if  
25 termination is found to be in the best interest of the parent and child.

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

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

38 In the Matter of the termination )  
39 of the parental rights of )  
40 ..... )  
41 ..... )

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (a) (i) With regard to a child who is placed with adoptive par-  
29 ents more than six (6) months after birth, an unmarried biological  
30 father shall have developed a substantial relationship with the  
31 child, taken some measure of responsibility for the child and the  
32 child's future, and demonstrated a full commitment to the respon-  
33 sibilities of parenthood by financial support of the child, of a  
34 fair and reasonable sum and in accordance with the father's abil-  
35 ity, when not prevented from doing so by the person or authorized  
36 agency having lawful custody of the child, and either:

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

41 2. Having regular communication with the child or with the  
42 person or agency having the care or custody of the child,  
43 when physically and financially unable to visit the child,  
44 and when not prevented from doing so by the person or autho-  
45 rized agency having lawful custody of the child.

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

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

8 (b) With regard to a child who is under six (6) months of age at the  
9 time he is placed with adoptive parents, an unmarried biological father  
10 shall have manifested a full commitment to his parental responsi-  
11 bilities by performing all of the acts described in this subsection  
12 and prior to the date of the filing of any proceeding to terminate  
13 the parental rights of the birth mother; the filing of any proceed-  
14 ing to adopt the child; or the execution of a consent to terminate  
15 the birth mother's parental rights under the provisions of section  
16 16-2005-~~(4)~~(5), Idaho Code, whichever occurs first. The father shall  
17 have strictly complied with all of the requirements of this subsection  
18 by:

19 (i) Filing proceedings to establish paternity under section  
20 7-1111, Idaho Code, and filing with that court a sworn affidavit  
21 stating that he is fully able and willing to have full custody of  
22 the child, setting forth his plans for the care of the child, and  
23 agreeing to a court order of child support and the payment of ex-  
24 penses incurred in connection with the mother's pregnancy and the  
25 child's birth;

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

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

34 (4) An unmarried biological father whose consent is required under sub-  
35 section (1) or (3) of this section may nevertheless lose his right to consent  
36 if the court determines, in accordance with the requirements and procedures  
37 of the termination of parent and child relationship act, sections 16-2001  
38 through 16-2015, Idaho Code, that his rights should be terminated, based on  
39 the petition of any party as set forth in section 16-2004, Idaho Code.

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

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

8 (a) It was not possible for him, prior to the filing of a proceeding to  
9 terminate parental rights of the birth mother; the filing of any pro-  
10 ceeding to adopt the child; or the execution of a consent to terminate  
11 the birth mother's parental rights under the provisions of section  
12 16-2005-~~(4)~~(5), Idaho Code, whichever occurs first, to:

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

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

19 (b) His failure to timely file notice of the filing of proceedings to  
20 establish his paternity of the child with the vital statistics unit  
21 of the department of health and welfare in accordance with section  
22 16-1513, Idaho Code, and his failure to commence timely proceedings to  
23 establish paternity of his child in accordance with section 7-1111,  
24 Idaho Code, were through no fault of his own; and

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

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

38 (8) No consent shall be required of, nor notice given to, any person  
39 whose parental relationship to such child shall have been terminated in  
40 accordance with the provisions of either chapter 16 or 20, title 16, Idaho  
41 Code, or by a court of competent jurisdiction of a sister state under like  
42 proceedings, or in any other manner authorized by the laws of a sister state.  
43 Where a voluntary child placement agency licensed by the state in which it  
44 does business is authorized to place a child for adoption and to consent  
45 to such child's adoption under the laws of such state, the consent of such  
46 agency to the adoption of such child in a proceeding within the state of Idaho  
47 shall be valid and no further consents or notices shall be required.

48 (9) The legislature finds that an unmarried biological father who re-  
49 sides in another state may not, in every circumstance, be reasonably pre-  
50 sumed to know of and strictly comply with the requirements of this chapter.

1 Therefore, when all of the following requirements have been met, that unmar-  
2 ried biological father may contest an adoption prior to finalization of the  
3 decree of adoption and assert his interest in the child:

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

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

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

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

16 (10) An unmarried biological father may, under the provisions of sec-  
17 tion 7-1107, Idaho Code, file a proceeding to establish his paternity prior  
18 to the birth of the child; however, such paternity proceeding must be filed  
19 prior to the date of the filing of any proceeding to terminate parental  
20 rights of the birth mother; the filing of any proceeding to adopt the child;  
21 or the execution of a consent to terminate the birth mother's parental rights  
22 under the provisions of section 16-2005-~~(4)~~(5), Idaho Code, whichever occurs  
23 first.

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

26 16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child  
27 shall be commenced by the filing of a petition together with a copy thereof.  
28 The petition shall be initiated by the person or persons proposing to adopt  
29 the child and shall be filed with the district court of the county in which  
30 said person or persons reside. If the adoption arises from a child protec-  
31 tive act case, the petition shall be filed in the court having jurisdiction  
32 over the child protective act case unless that court relinquishes jurisdic-  
33 tion over the adoption proceeding. The petitioners shall have resided and  
34 maintained a dwelling within the state of Idaho for at least six (6) consec-  
35 utive months prior to the filing of a petition. The petition shall set forth  
36 the name and address of the petitioner or petitioners, the name of the child  
37 proposed to be adopted and the name by which the person to be adopted shall be  
38 known if and when adopted, the degree of relationship of the child, if any,  
39 to the petitioner or petitioners and the names of any person or agency whose  
40 consent to said adoption is necessary. At the time fixed for hearing such  
41 petition, the person adopting a child and the child adopted, and the spouse  
42 of the petitioner if a natural parent of the child, must appear before the  
43 court of the county wherein the petition was filed. The petitioner shall at  
44 such time execute an agreement to the effect that the child shall be adopted  
45 and treated in all respects as his own lawful child should be treated.

46 (2) If the adoption arises from a child protective act case, then, in  
47 addition to the petition filed pursuant to subsection (1) of this section,  
48 the department of health and welfare shall file the permanency plan prepared  
49 pursuant to section 16-1620 or 16-1622, Idaho Code, associated with the

1 child protective act case. If the court determines that the person proposing  
2 to adopt the child is not the proposed adoptive parent named in the perma-  
3 nency plan, then the judge shall stay the proceeding pending the department  
4 preparing and filing an amended permanency plan pursuant to section 16-1620  
5 or 16-1622, Idaho Code, and the approval of the amended permanency plan by  
6 the judge presiding over the child protective act proceeding.

7 (3) Any person or persons whose consent is required shall execute such  
8 consent in writing, in a form consistent with the provisions of section  
9 16-2005-~~(4)~~ (5), Idaho Code, which consent being filed in the court where the  
10 application is made, shall be deemed a sufficient appearance on the part of  
11 such person or persons. If any adoptive parent, or a person not a minor being  
12 adopted by a resident adult under the provisions of section 16-1501, Idaho  
13 Code, is a member of the armed services and is unable to attend the hearing,  
14 his appearance and testimony shall be received by means of deposition, which  
15 shall be filed in the court at the time of the hearing.

16 (4) Prior to the placement for adoption of any child in the home of  
17 prospective adoptive parents, it shall be required that a thorough social  
18 investigation of the prospective adoptive family and all of its members,  
19 consistent with the rules regarding such investigations promulgated by the  
20 department of health and welfare, shall be completed and that a positive  
21 recommendation for adoptive placement shall have been made. The social in-  
22 vestigation may be performed by any individual who meets the requirements of  
23 the law. A copy of the study must be submitted to the department and the de-  
24 partment may impose a reasonable fee, not to exceed fifty dollars (\$50.00),  
25 for oversight of such privately conducted studies. If the prospective adop-  
26 tive parent has a disability as defined in this chapter, the prospective  
27 adoptive parent shall have the right, as a part of the social study, to pro-  
28 vide information regarding the manner in which the use of adaptive equipment  
29 or supportive services will enable the parent to carry out the responsibili-  
30 ties of parenting the child. The person performing the social investigation  
31 shall advise the prospective adoptive parent of such right and shall con-  
32 sider all such information in any findings or recommendations. The social  
33 investigation of any prospective adoptive parent with a disability shall  
34 be conducted by, or with the assistance of, an individual with expertise in  
35 the use of such equipment and services. Nothing in this chapter shall be  
36 construed to create any new or additional obligation on state or local gov-  
37 ernments to purchase or provide adaptive equipment or supportive services  
38 for parents with disabilities. In those instances where the prospective  
39 adoptive parent is married to the birth parent or is the grandparent of the  
40 child to be adopted, such social investigation shall be completed with re-  
41 gard to the prospective adoptive parent only upon order of the court. In  
42 exigent circumstances where the prospective adoptive parents are determined  
43 by the court to have been unable to complete a social investigation of the  
44 family with a positive recommendation prior to the time the child is placed  
45 in the home, the child shall remain in the home unless the court determines  
46 the best interests of the child are served by other placement. If exigent  
47 circumstances exist, a social investigation shall be initiated within five  
48 (5) days of placement. Once initiated, all studies shall be completed within  
49 sixty (60) days. Upon the filing of a petition to adopt a minor child by a  
50 person unrelated to the child or unmarried to a natural parent of the child



1 and at the discretion of the court upon the filing of any other petition for  
2 adoption, a copy of such petition, together with a statement containing the  
3 full names and permanent addresses of the child and the petitioners, shall  
4 be served by the court receiving the petition within five (5) days on the di-  
5 rector of the department of health and welfare by registered mail or personal  
6 service. If no private investigation is conducted, it shall then be the duty  
7 of the said director, through the personnel of the department or through  
8 such qualified child-placing children's adoption agency incorporated under  
9 chapter 30, title 30, Idaho Code, as the director may designate, to verify  
10 the allegations of the petition, and as soon as possible not exceeding thirty  
11 (30) days after service of the petition on the director to make a thorough  
12 investigation of the matter to include in all cases information as to the  
13 alleged date and place of birth and as to parentage of the child to be adopted  
14 as well as the source of all such information and report his findings in writ-  
15 ing to the court. The investigative report shall include reasonably known  
16 or available medical and genetic information regarding both natural parents  
17 and sources of such information as well as reasonably known or available  
18 providers of medical care and services to the natural parents. A copy of all  
19 medical and genetic information compiled in the investigation shall be made  
20 available to the adopting family by the department or other investigating  
21 children's adoption agency prior to entry of the final order of adoption.  
22 The petition, statement and all other papers, records or files relating to  
23 the adoption, including the preplacement investigation and recommendation,  
24 shall be returned to the court with the investigative report. The department  
25 of health and welfare or other children's adoption agency may require the  
26 petitioner to pay all or any part of the costs of the investigation. If the  
27 report disapproves of the adoption of the child, motion may be made to the  
28 court to dismiss the petition.

29 (5) Proceedings for termination of parent-child relationship in accor-  
30 dance with chapter 20, title 16, Idaho Code, and proceedings for adoption may  
31 be consolidated and determined at one (1) hearing provided that all of the  
32 requirements of this chapter as well as chapter 20, title 16, Idaho Code, be  
33 fully complied with. Nothing in either chapter shall be construed as limit-  
34 ing the initiation of any petition for approval of a verified financial plan  
35 for adoption expenses pursuant to section 18-1511, Idaho Code, prior to the  
36 birth of the child which is the subject of any adoption proceeding. In all  
37 disputed matters under this chapter or chapter 20, title 16, Idaho Code, the  
38 paramount criterion for consideration and determination by the court shall  
39 be the best interests of the child.

40 (6) Proceedings for the adoption of an adult shall be as provided in  
41 subsection (1) of this section and any consents required shall be executed  
42 as provided in subsection (3) of this section. Upon a finding by the court  
43 that the consent of all persons for whom consent is required has been given  
44 and that the requirements of section 16-1501, Idaho Code, have been proven  
45 to the satisfaction of the court, the court shall enter an order granting the  
46 adoption. In cases where the adult proposed to be adopted is incapacitated  
47 or disabled, the court may require that an investigation be performed. The  
48 form and extent of the investigation to be undertaken may be as provided in  
49 subsection (4) of this section, or as otherwise ordered by the court. If an

1 investigation is performed, the court must review and approve the findings  
2 of the investigation before issuing an order approving the adoption.

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

5 16-1513. REGISTRATION OF NOTICE AND FILING OF PATERNITY PROCEED-  
6 INGS. (1) A person who is the father or claims to be the father of a child  
7 born out of wedlock may claim rights pertaining to his paternity of the child  
8 by commencing proceedings to establish paternity under section 7-1111,  
9 Idaho Code, and by filing with the vital statistics unit of the department  
10 of health and welfare notice of his filing of proceedings to establish his  
11 paternity of the child born out of wedlock. The vital statistics unit of  
12 the department of health and welfare shall provide forms for the purpose of  
13 filing the notice of filing of paternity proceedings, and the forms shall  
14 be made available through the vital statistics unit of the Idaho department  
15 of health and welfare and in the office of the county clerk in every county  
16 of this state. The forms shall include a written notification that filing  
17 pursuant to this section shall not satisfy the requirements of chapter 82,  
18 title 39, Idaho Code, and the notification shall also include the following  
19 statements:

20 (a) A parent may make a claim of parental rights of an abandoned child,  
21 abandoned pursuant to the provisions of chapter 82, title 39, Idaho  
22 Code, as provided by section 39-8206, Idaho Code, by filing a notice of  
23 claim of parental rights with the vital statistics unit of the depart-  
24 ment of health and welfare on a form as prescribed and provided by the  
25 vital statistics unit of the department of health and welfare;

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

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

36 (d) To be valid, a claim of parental rights of an abandoned child, aban-  
37 doned pursuant to the provisions of chapter 82, title 39, Idaho Code,  
38 must be filed before an order terminating parental rights is entered by  
39 the court. A parent that fails to file a claim of parental rights prior  
40 to entry of an order terminating their parental rights is deemed to have  
41 abandoned the child and waived and surrendered any right in relation to  
42 the child, including the right to notice of any judicial proceeding in  
43 connection with the termination of parental rights or adoption of the  
44 child;

45 (e) Registration of notice of filing of paternity proceedings pursuant  
46 to chapter 15, title 16, Idaho Code, shall not satisfy the requirements  
47 of chapter 82, title 39, Idaho Code. To register a parental claim to  
48 an abandoned child, abandoned pursuant to the provisions of chapter 82,  
49 title 39, Idaho Code, an individual must file an abandoned child reg-

1           istry claim with the vital statistics unit of the department of health  
2           and welfare and comply with all other provisions of chapter 82, title  
3           39, Idaho Code, in the time and manner prescribed, in order to preserve  
4           parental rights to the child.

5           When filing a notice of the filing of paternity proceedings, a person  
6           who claims to be the father of a child born out of wedlock shall file with the  
7           vital statistics unit of the department of health and welfare the completed  
8           form prescribed by the vital statistics unit of the department of health  
9           and welfare. Said form will be filled out completely, signed by the person  
10          claiming paternity, and witnessed before a notary public.

11          (2) The notice of the filing of paternity proceedings may be filed prior  
12          to the birth of the child, but must be filed prior to the date of the filing  
13          of any proceeding to terminate the parental rights of the birth mother. The  
14          notice of the filing of paternity proceedings shall be signed by the person  
15          filing the notice and shall include his name and address, the name and last  
16          address of the mother, and either the birth date of the child or the probable  
17          month and year of the expected birth of the child. The vital statistics unit  
18          of the department of health and welfare shall maintain a central registry for  
19          this purpose that shall be subject to disclosure according to chapter 1, ti-  
20          tle 74, Idaho Code. The department shall record the date and time the no-  
21          tice of the filing of proceedings is filed with the department. The notice  
22          shall be deemed to be duly filed with the department as of the date and time  
23          recorded on the notice by the department.

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

27          (4) Except as provided in section 16-1504(6), Idaho Code, any father  
28          of a child born out of wedlock who fails to file and register his notice of  
29          the commencement of paternity proceedings pursuant to section 7-1111, Idaho  
30          Code, prior to the date of the filing of any proceeding to terminate the  
31          parental rights of the birth mother; the filing of any proceeding to adopt  
32          the child; or the execution of a consent to terminate the birth mother's  
33          parental rights under the provisions of section 16-2005-~~(4)~~(5), Idaho Code,  
34          whichever occurs first, is deemed to have waived and surrendered any right  
35          in relation to the child and of any notice to proceedings for adoption of the  
36          child or for termination of parental rights of the birth mother. His consent  
37          to the adoption of the child shall not be required and he shall be barred from  
38          thereafter bringing or maintaining any action to establish his paternity of  
39          the child. Failure of such filing or registration shall constitute an aban-  
40          donment of said child and shall constitute an irrevocable implied consent in  
41          any adoption or termination proceeding.

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

48          (6) An unmarried biological father of a child born out of wedlock who  
49          has filed and registered a notice of the filing of paternity proceedings may  
50          at any time revoke notice of intent to claim paternity previously filed.

1 Upon receipt of written revocation, the effect shall be as if no notice of the  
2 filing of paternity proceedings had been filed or registered.

3 (7) In any adoption proceeding pertaining to a child born out of wed-  
4 lock, if there is no showing that the putative father has consented to the  
5 adoption, a certificate shall be obtained from the vital statistics unit of  
6 the department of health and welfare, signed by the state registrar of vital  
7 statistics, which certificate shall state that a diligent search has been  
8 made of the registry of notices from putative fathers, and that no filing has  
9 been found pertaining to the father of the child in question, or if a fil-  
10 ing is found, stating the name of the putative father and the time and date  
11 of filing. That certificate shall be filed with the court prior to entry of a  
12 final decree of adoption.

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

15 (9) To cover the cost of implementing and maintaining said central  
16 registry, the vital statistics unit of the department of health and welfare  
17 shall charge a filing fee of ten dollars (\$10.00) at the time the putative  
18 father files his notice of his commencement of proceedings. The department  
19 shall also charge a reasonable fee to cover all costs incurred in a search  
20 of the Idaho putative father registry and for furnishing a certificate in  
21 accordance with the provisions of this section and section 16-1504, Idaho  
22 Code. It is the intent of the legislature that the fee shall cover all direct  
23 and indirect costs incurred pursuant to this section and section 16-1504,  
24 Idaho Code. The department shall annually review the fees and expenses in-  
25 curred pursuant to administering the provisions of this section and section  
26 16-1504, Idaho Code.

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

31 (11) The department shall produce and distribute, within the limits  
32 of continuing annual appropriations duly made available to the department  
33 by the legislature for such purposes, a pamphlet or publication informing  
34 the public about the Idaho putative father registry, printed in English and  
35 Spanish. The pamphlet shall indicate the procedures to be followed in or-  
36 der to receive notice of any proceeding for the adoption of a child that an  
37 unmarried biological father claims to have fathered and of any proceeding  
38 for termination of his parental rights, voluntary acknowledgment of pater-  
39 nity, the consequences of acknowledgment of paternity, the consequences  
40 of failure to acknowledge paternity and the address of the Idaho putative  
41 father registry. Within the limits of continuing annual appropriations  
42 duly made available to the department by the legislature for such purposes,  
43 such pamphlets or publications shall be made available for distribution  
44 to the public at all offices of the department of health and welfare. Upon  
45 request, the department shall also provide such pamphlets or publications  
46 to hospitals, libraries, medical clinics, schools, colleges, universities,  
47 providers of child-related services and children's agencies licensed in the  
48 state of Idaho or advertising services in the state of Idaho.

49 (12) Within the limits of continuing annual appropriations duly made  
50 available to the department by the legislature for such purposes, each

1 county clerk, branch office of the department of motor vehicles, all of-  
2 fices of the department of health and welfare, hospitals and local health  
3 districts shall post in a conspicuous place a notice that informs the public  
4 about the purpose and operation of the Idaho putative father registry. The  
5 notice must include information regarding the following:

6 (a) Where to obtain a registration form;

7 (b) Where to register;

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

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

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

12 (13) The department shall host on the department's web page a public  
13 service announcement (PSA) informing the public about the Idaho putative  
14 father registry, printed in English and Spanish. The PSA shall indicate  
15 the procedures to be followed in order to receive notice of any proceeding  
16 for the adoption of a child that an unmarried biological father claims to  
17 have fathered and of any proceeding for termination of his parental rights,  
18 voluntary acknowledgment of paternity, the consequences of acknowledgment  
19 of paternity, the consequences of failure to acknowledge paternity and the  
20 address of the Idaho putative father registry.

21 (14) Failure to post a proper notice under the provisions of this sec-  
22 tion does not relieve a putative father of the obligation to file notice  
23 of the filing of proceedings to establish his paternity pursuant to this  
24 section or to commence proceedings to establish paternity pursuant to sec-  
25 tion 7-1111, Idaho Code, prior to the filing of any proceeding to terminate  
26 parental rights of the birth mother.

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

29 SECTION 6. An emergency existing therefor, which emergency is hereby  
30 declared to exist, this act shall be in full force and effect on and after  
31 July 1, 2023.