

IN THE SENATE

SENATE BILL NO. 1253

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO AN APPEAL; AMENDING SECTION 16-1512, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN APPEAL FROM AN ORDER GRANTING OR REFUSING TO GRANT AN ORDER OF ADOPTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1625, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN APPEAL FROM CERTAIN COURT ORDERS OR DECREES; AND AMENDING SECTION 16-2014, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN APPEAL FROM A COURT ORDER OR DECREE GRANTING OR REFUSING TO GRANT A TERMINATION.

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

SECTION 1. That Section 16-1512, Idaho Code, be, and the same is hereby amended to read as follows:

16-1512. APPEAL FROM ORDER ~~TO DISTRICT COURT~~ -- BINDING EFFECT OF ADOPTION ORDER. (1) Any appeal ~~may be taken to the district court of the county from an order of the magistrates division of the district court granting or refusing to grant an order of adoption or from any other intermediate order in adoption proceedings~~ shall be taken to the supreme court.

(2) After the order of adoption by the court becomes final, no party to an adoption proceeding, nor anyone claiming under such party, may later question the validity ~~of~~ of the adoption proceedings by reason of any defect or irregularity therein, jurisdiction or otherwise, but shall be fully bound by the order, except for such appeal as may be allowed in subsection (1) of this section. In no event, for any reason, other than fraud on the part of the party adopting a child, shall an adoption be overturned by any court or collaterally attacked by any person or entity after six (6) months from the date the order of adoption becomes final. This provision is intended as a statute of repose.

SECTION 2. That Section 16-1625, Idaho Code, be, and the same is hereby amended to read as follows:

16-1625. APPEAL -- EFFECT ON CUSTODY. (1) An aggrieved party may appeal the following orders or decrees of the court to the district court, ~~within thirty (30) days of the filing of such order or decree~~ or may seek a direct permissive appeal to the supreme court as provided by rules adopted by the supreme court:

- (a) An adjudicatory decree entered pursuant to section 16-1619, Idaho Code;
- (b) Any order subsequent to the adjudicatory decree that vests legal custody of the child in the department or other authorized agency;
- (c) Any order subsequent to the adjudicatory decree that authorizes or mandates the department to cease reasonable efforts to make it possible

1 to return the child to his home, including an order finding that the
2 parent subjected the child to aggravated circumstances as set forth in
3 section 16-1619(6) (d), Idaho Code; or

4 (d) An order of dismissal.

5 (2) Where the order affects the custody of a child, the appeal shall be
6 heard at the earliest practicable time. The pendency of an appeal shall not
7 suspend the order of the court regarding a child, and it shall not discharge
8 the child from the legal custody of the authorized agency to whose care he
9 has been committed, unless otherwise ordered by the district court. No
10 bond or undertaking shall be required of any party appealing to the district
11 court under the provisions of this section. Any final order or judgment of
12 the district court shall be appealable to the supreme court of the state of
13 Idaho in the same manner as appeals in other civil actions. The filing of the
14 notice of appeal shall not, unless otherwise ordered, stay the order of the
15 district court.

16 SECTION 3. That Section 16-2014, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 16-2014. APPEALS. Any appeal ~~may be taken to the district court~~ from
19 an order or decree of the court granting or refusing to grant a termination,
20 ~~in the manner and form as appeals are taken in other civil proceedings from~~
21 ~~the magistrates division of the district court to district courts~~ shall
22 be taken to the supreme court, provided, however, pendency of an appeal or
23 application therefor shall not suspend the order of the court relative to
24 termination of the parent-child relationship.