

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 214

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PUTATIVE FATHERS; AMENDING SECTION 7-1107, IDAHO CODE, TO PRO-  
2 VIDE A CODE REFERENCE AND TO REVISE PROVISIONS RELATING TO A PROCEEDING  
3 TO ESTABLISH PATERNITY OF A CHILD; AMENDING CHAPTER 11, TITLE 7, IDAHO  
4 CODE, BY THE ADDITION OF A NEW SECTION 7-1126, IDAHO CODE, TO PROVIDE  
5 THAT A COURT SHALL NOT CONSIDER WHETHER A PARENT CONSENTED TO ADOPTION  
6 IN DETERMINING BEST INTEREST OF THE CHILD; AMENDING SECTION 16-1501,  
7 IDAHO CODE, TO PROVIDE THAT NOTHING IN THIS CHAPTER SHALL MODIFY THE  
8 REQUIREMENTS OF THE INDIAN CHILD WELFARE ACT; AMENDING SECTION 16-1504,  
9 IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO  
10 THE RIGHTS OF PUTATIVE FATHERS WHOSE CHILDREN HAVE BEEN PLACED WITH  
11 ADOPTIVE PARENTS, TO REVISE PROVISIONS RELATING TO PUTATIVE FATHERS  
12 WHO DO NOT COMPLY WITH THE PROCEDURES FOR ESTABLISHING PARENTAL RIGHTS,  
13 TO PROVIDE THAT AN UNMARRIED BIOLOGICAL FATHER MUST FILE A PROCEEDING  
14 TO ESTABLISH PATERNITY PRIOR TO THE DATE OF FILING OF A PROCEEDING TO  
15 TERMINATE RIGHTS OF THE BIRTH MOTHER AND TO MAKE TECHNICAL CORRECTIONS;  
16 AMENDING SECTION 16-1513, IDAHO CODE, TO PROVIDE THAT REGISTRATION OF  
17 NOTICE OF FILING OF PROCEEDINGS COMMENCES ESTABLISHMENT OF PATERNITY,  
18 TO PROVIDE CODE REFERENCES, TO PROVIDE THAT NOTICE TO A PUTATIVE FATHER  
19 OF PROCEEDINGS FOR ADOPTION CONSTITUTES IMPLIED CONSENT, TO PROVIDE  
20 FOR REVOCATION OF NOTICE OF INTENT TO CLAIM PATERNITY, TO PROVIDE FOR  
21 FEES TO COVER COSTS, TO REVISE TERMINOLOGY, TO PROVIDE FOR PAMPHLETS  
22 AND PUBLIC NOTICE REGARDING THE PUTATIVE FATHER REGISTRY, TO PROVIDE A  
23 PENALTY FOR FALSELY REGISTERING AS A PUTATIVE FATHER AND TO MAKE TECH-  
24 NICAL CORRECTIONS; AMENDING SECTION 16-2007, IDAHO CODE, TO PROVIDE  
25 A CODE REFERENCE AND TO PROVIDE FOR FATHERS WHO HAVE FAILED TO TIMELY  
26 FILE NOTICE OF FILING OF PROCEEDINGS; AND AMENDING SECTION 16-2008,  
27 IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO PROVIDE FOR FATHERS WHO HAVE  
28 FAILED TO TIMELY FILE NOTICE OF FILING OF PROCEEDINGS AND TO MAKE TECH-  
29 NICAL CORRECTIONS.  
30

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

32 SECTION 1. That Section 7-1107, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 7-1107. LIMITATION OF ACTION. (1) Except as provided in section  
35 16-1504(9), Idaho Code, a pProceedings to establish paternity of the child  
36 under the provisions of this chapter may be instituted only either before  
37 or after the birth of the child and but must be instituted before the child  
38 reaches the age of majority as defined in section 32-101, Idaho Code.

39 (2) This section shall apply retroactively, and is for the benefit of  
40 any dependent child, whether born before or after the effective date of this  
41 act, and regardless of the past or current marital status of the parents.

1 SECTION 2. That Chapter 11, Title 7, Idaho Code, be, and the same is  
 2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 3 ignated as Section 7-1126, Idaho Code, and to read as follows:

4 7-1126. CUSTODY OF CHILDREN -- BEST INTEREST. In any proceeding to de-  
 5 termine custody under the provisions of this chapter, the court shall apply  
 6 sections 32-717 through 32-717E, Idaho Code. However, the court shall not  
 7 consider whether or not the mother or father did or did not voluntarily con-  
 8 sent to the adoption of the child or to the relinquishment of parental rights  
 9 in determining best interest of the child.

10 SECTION 3. That Section 16-1501, Idaho Code, be, and the same is hereby  
 11 amended to read as follows:

12 16-1501. MINORS AND ADULTS MAY BE ADOPTED. Any minor child may be  
 13 adopted by any adult person residing in and having residence in Idaho, in the  
 14 cases and subject to the rules prescribed in this chapter.

15 (1) Persons not minors may be adopted by a resident adult in cases where  
 16 the person adopting has sustained the relation of parent to such adopted per-  
 17 son:

18 (a) For a period in excess of one (1) year while the person was a minor;  
 19 or

20 (b) For such period of time or in such manner that the court after inves-  
 21 tigation finds a substantial family relationship has been created.

22 (2) Adoptions shall not be denied solely on the basis of the disability  
 23 of a prospective adoptive parent.

24 (a) "Adaptive equipment," for purposes of this chapter, means any piece  
 25 of equipment or any item that is used to increase, maintain, or improve  
 26 the parenting capabilities of a parent with a disability.

27 (b) "Disability," for purposes of this chapter, means, with respect to  
 28 an individual, any mental or physical impairment which substantially  
 29 limits one (1) or more major life activities of the individual includ-  
 30 ing, but not limited to, self-care, manual tasks, walking, seeing,  
 31 hearing, speaking, learning, or working, or a record of such an im-  
 32 pairment, or being regarded as having such an impairment. Disability  
 33 shall not include transvestism, transsexualism, pedophilia, exhibi-  
 34 tionism, voyeurism, other sexual behavior disorders, or substance use  
 35 disorders, compulsive gambling, kleptomania, or pyromania. Sexual  
 36 preference or orientation is not considered an impairment or disabil-  
 37 ity. Whether an impairment substantially limits a major life activity  
 38 shall be determined without consideration of the effect of corrective  
 39 or mitigating measures used to reduce the effects of the impairment.

40 (c) "Supportive services," as used in this chapter, means services  
 41 which assist a parent with a disability to compensate for those aspects  
 42 of their disability which affect their ability to care for their child  
 43 and which will enable them to discharge their parental responsibili-  
 44 ties. The term includes specialized or adapted training, evaluations,  
 45 or assistance with effective use of adaptive equipment, and accommo-  
 46 dations which allow a parent with a disability to benefit from other  
 47 services, such as Braille texts or sign language interpreters.

1        (3) If applicable, nothing in this chapter shall modify the require-  
 2        ments of the Indian child welfare act of 1978, 25 U.S.C. section 1902, et seq.

3        SECTION 4. That Section 16-1504, Idaho Code, be, and the same is hereby  
 4        amended to read as follows:

5        16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption is re-  
 6        quired from:

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

9        (b) Both parents or the surviving parent of an adoptee who was conceived  
 10       or born within a marriage, unless the adoptee is eighteen (18) years of  
 11       age or older;

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

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

16       (e) An unmarried biological father of an adoptee only if the require-  
 17       ments and conditions of subsection (2) (a) or (b) of this section have  
 18       been proven;

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

20       (g) The guardian or conservator of an incapacitated adult, if one has  
 21       been appointed;

22       (h) The adoptee's spouse, if any; ~~and~~

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

26       (j) The father of an illegitimate child who has adopted the child by ac-  
 27       knowledgment.

28       (2) In accordance with subsection (1) of this section, the consent of  
 29       an unmarried biological father is necessary only if the father has strictly  
 30       complied with ~~the~~ all requirements of this section.

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

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

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

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

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

13 (b) With regard to a child who is under six (6) months of age at the  
 14 time he is placed with adoptive parents, an unmarried biological father  
 15 shall have manifested a full commitment to his parental responsibili-  
 16 ties by performing all of the acts described in this subsection ~~prior~~  
 17 ~~to the placement for adoption of the child in the home of prospective~~  
 18 ~~parents or and prior to the date of commencement the filing of any pro-~~  
 19 ~~ceeding to terminate the parental rights of the birth mother, whichever~~  
 20 ~~event occurs first.~~ The father shall have strictly complied with all of  
 21 the requirements of this subsection by:

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

29 (ii) ~~File Filing~~ a notice of ~~his commencement of the~~ proceedings  
 30 to establish his paternity of the child with the vital statistics  
 31 unit of the department of health and welfare pursuant to section  
 32 16-1513, Idaho Code; and

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

38 (3) An unmarried biological father whose consent is required under sub-  
 39 section (1) or (2) of this section may nevertheless lose his right to consent  
 40 if the court determines, in accordance with the requirements and procedures  
 41 of the termination of parent and child relationship act, sections 16-2001  
 42 through 16-2015, Idaho Code, that his rights should be terminated, based on  
 43 the petition of any party as set forth in section 16-2004, Idaho Code.

44 (4) In any adoption proceeding pertaining to a child born out of wed-  
 45 lock, if there is no showing that an unmarried biological father has con-  
 46 sent to or waived his rights regarding a proposed adoption, the petitioner  
 47 shall file with the court a certificate from the vital statistics unit of the  
 48 department of health and welfare, signed by the state registrar of vital sta-  
 49 tistics, stating that a diligent search has been made of the registry of no-  
 50 tices from putative fathers, of a child born out of wedlock, and that the pu-

1 tative father involved has not filed notice of ~~his commencement of the pro-~~  
2 ceedings to establish his paternity, or if a filing is found, stating the  
3 name of the putative father and the time and date of filing. That certifi-  
4 cate shall be filed with the court prior to the entrance of the final decree  
5 of adoption.

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

13 (a) It was not possible for him, prior to the filing of a proceeding to  
14 terminate parental rights of the birth mother to:

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

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

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

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

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

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

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

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

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

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

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

19 (9) ~~Notwithstanding~~ An unmarried biological father may, under the pro-  
 20 visions of section 7-1107, Idaho Code, file a proceeding to establish his pa-  
 21 ternity filed pursuant to this section may be filed prior to the birth of the  
 22 child; however, such paternity proceeding must be filed prior to the date  
 23 of the filing of any proceeding to terminate parental rights of the birth  
 24 mother.

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

27 16-1513. REGISTRATION OF NOTICE OF ~~COMMENCEMENT~~ AND FILING OF PATER-  
 28 NITY PROCEEDINGS. (1) A person who is the father or claims to be the father  
 29 of a child born out of wedlock may claim rights pertaining to his paternity  
 30 of the child by commencing proceedings to establish paternity under section  
 31 7-1111, Idaho Code, and by filing with the vital statistics unit of the de-  
 32 partment of health and welfare notice of his ~~commencement~~ filing of proceed-  
 33 ings to establish his paternity of the child born out of wedlock. The vital  
 34 statistics unit of the department of health and welfare shall provide forms  
 35 for the purpose of filing the notice of ~~commencement~~ filing of paternity pro-  
 36 ceedings, and the forms shall be made available through the vital statistics  
 37 unit of the Idaho department of health and welfare and in the office of the  
 38 county clerk in every county of this state. The forms shall include a writ-  
 39 ten notification that filing pursuant to this section shall not satisfy the  
 40 requirements of chapter 82, title 39, Idaho Code, and the notification shall  
 41 also include the following statements:

42 (a) A parent may make a claim of parental rights of an abandoned child,  
 43 abandoned pursuant to the provisions of chapter 82, title 39, Idaho  
 44 Code, as provided by section 39-8206, Idaho Code, by filing a notice of  
 45 claim of parental rights with the vital statistics unit of the depart-  
 46 ment of health and welfare on a form as prescribed and provided by the  
 47 vital statistics unit of the department of health and welfare;

48 (b) The vital statistics unit of the department of health and welfare  
 49 shall maintain a separate registry for claims to abandoned children,

1 abandoned pursuant to the provisions of chapter 82, title 39, Idaho  
2 Code;

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

9 (d) To be valid, a claim of parental rights of an abandoned child, aban-  
10 doned pursuant to the provisions of chapter 82, title 39, Idaho Code,  
11 must be filed before an order terminating parental rights is entered by  
12 the court. A parent that fails to file a claim of parental rights prior  
13 to entry of an order terminating their parental rights is deemed to have  
14 abandoned the child and waived and surrendered any right in relation to  
15 the child, including the right to notice of any judicial proceeding in  
16 connection with the termination of parental rights or adoption of the  
17 child;

18 (e) Registration of notice of ~~commencement~~ filing of paternity pro-  
19 ceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy  
20 the requirements of chapter 82, title 39, Idaho Code. To register a  
21 parental claim to an abandoned child, abandoned pursuant to the provi-  
22 sions of chapter 82, title 39, Idaho Code, an individual must file an  
23 abandoned child registry claim with the vital statistics unit of the  
24 department of health and welfare and comply with all other provisions of  
25 chapter 82, title 39, Idaho Code, in the time and manner prescribed, in  
26 order to preserve parental rights to the child.

27 When filing a notice of the ~~commencement~~ filing of paternity proceed-  
28 ings, a person who claims to be the father of a child born out of wedlock,  
29 shall file with the vital statistics unit of the department of health and  
30 welfare, the completed form prescribed by the vital statistics unit of the  
31 department of health and welfare. Said form will be filled out completely,  
32 signed by the person claiming paternity, and witnessed before a notary pub-  
33 lic.

34 (2) The notice of the ~~commencement~~ filing of paternity proceedings may  
35 be filed prior to the birth of the child, but must be filed ~~prior to the place-~~  
36 ~~ment for adoption of the child in the home of prospective parents or~~ prior  
37 to the date of ~~commencement~~ the filing of any proceeding to terminate the  
38 parental rights of the birth mother, ~~whichever event occurs first~~. The no-  
39 tice of the ~~commencement~~ filing of paternity proceedings shall be signed by  
40 the person filing the notice and shall include his name and address, the name  
41 and last address of the mother, and either the birth date of the child or the  
42 probable month and year of the expected birth of the child. The vital sta-  
43 tistics unit of the department of health and welfare shall maintain a central  
44 registry for this purpose ~~which that~~ shall be subject to disclosure accord-  
45 ing to chapter 3, title 9, Idaho Code. The department shall record the date  
46 and time the notice of the ~~commencement~~ filing of proceedings is filed with  
47 the department. The notice shall be deemed to be duly filed with the depart-  
48 ment as of the date and time recorded on the notice by the department.

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

4 (4) Except as provided in section 16-1504(5), Idaho Code, aAny father  
5 of a child born out of wedlock who fails to file and register his notice of the  
6 commencement of paternity proceedings ~~prior to the placement for adoption of~~  
7 ~~the child in the home of prospective parents or pursuant to section 7-1111,~~  
8 Idaho Code, prior to the date of commencement the filing of any proceeding  
9 to terminate the parental rights of the birth mother, whichever event occurs  
10 first, is deemed to have waived and surrendered any right in relation to the  
11 child and of any notice to proceedings for adoption of the child or for termi-  
12 nation of parental rights of the birth mother. His consent to the adoption of  
13 the child shall not be required and he shall be barred from thereafter bring-  
14 ing or maintaining any action to establish his paternity of the child. Fail-  
15 ure of such filing or registration shall constitute an abandonment of said  
16 child and shall constitute an irrevocable implied consent in any adoption or  
17 termination proceeding.

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

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

29 (57) In any adoption proceeding pertaining to a child born out of wed-  
30 lock, if there is no showing that the putative father has consented to the  
31 adoption, a certificate shall be obtained from the vital statistics unit of  
32 the department of health and welfare, signed by the state registrar of vital  
33 statistics, which certificate shall state that a diligent search has been  
34 made of the registry of notices from putative fathers, and that no filing has  
35 been found pertaining to the father of the child in question, or if a fil-  
36 ing is found, stating the name of the putative father and the time and date  
37 of filing. That certificate shall be filed with the court prior to entry of a  
38 final decree of adoption.

39 (68) Identities of putative fathers can only be released pursuant to  
40 procedures contained in chapter 3, title 9, Idaho Code.

41 (79) To cover the cost of implementing and maintaining said central  
42 registry, the vital statistics unit of the department of health and welfare  
43 shall charge a filing fee of ten dollars (\$10.00) at the time the putative  
44 father files his notice of his commencement of proceedings. The department  
45 shall also charge a reasonable fee to cover all costs incurred in a search  
46 of the Idaho putative father registry and for furnishing a certificate in  
47 accordance with the provisions of this section and section 16-1504, Idaho  
48 Code. It is the intent of the legislature that the fee shall cover all direct  
49 and indirect costs incurred pursuant to this section and section 16-1504,  
50 Idaho Code. The board of health and welfare department shall annually review



1 the fees and expenses incurred pursuant to administering the provisions of  
2 this section and section 16-1504, Idaho Code.

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

7 (11) The department shall produce and distribute, within the limits  
8 of continuing annual appropriations duly made available to the department  
9 by the legislature for such purposes, a pamphlet or publication informing  
10 the public about the Idaho putative father registry, printed in English and  
11 Spanish. The pamphlet shall indicate the procedures to be followed in order  
12 to receive notice of any proceeding for adoption of a child an unmarried  
13 biological father claims to have fathered and of any proceeding for termi-  
14 nation of his parental rights, voluntary acknowledgment of paternity, the  
15 consequences of acknowledgment of paternity, the consequences of failure to  
16 acknowledge paternity and the address of the Idaho putative father registry.  
17 Within the limits of continuing annual appropriations duly made available  
18 to the department by the legislature for such purposes, such pamphlets or  
19 publications shall be made available for distribution to the public at all  
20 offices of the department of health and welfare. Upon request the department  
21 shall also provide such pamphlets or publications to hospitals, libraries,  
22 medical clinics, schools, colleges, universities, providers of child-re-  
23 lated services and children's agencies licensed in the state of Idaho or  
24 advertising services in the state of Idaho.

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

32 (a) Where to obtain a registration form;

33 (b) Where to register;

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

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

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

38 (13) The department shall host on the department's web page a public  
39 service announcement (PSA) informing the public about the Idaho putative  
40 father registry, printed in English and Spanish. The PSA shall indicate the  
41 procedures to be followed in order to receive notice of any proceeding for  
42 adoption of a child an unmarried biological father claims to have fathered  
43 and of any proceeding for termination of his parental rights, voluntary ac-  
44 knowledgment of paternity, the consequences of acknowledgment of paternity,  
45 the consequences of failure to acknowledge paternity and the address of the  
46 Idaho putative father registry.

47 (14) Failure to post a proper notice under the provisions of this sec-  
48 tion does not relieve a putative father of the obligation to file notice  
49 of the filing of proceedings to establish his paternity pursuant to this  
50 section or to commence proceedings to establish paternity pursuant to sec-

1 tion 7-1111, Idaho Code, prior to the filing of any proceeding to terminate  
2 parental rights of the birth mother.

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

5 SECTION 6. That Section 16-2007, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 16-2007. NOTICE -- WAIVER -- GUARDIAN AD LITEM. (1) After a petition  
8 has been filed, the court shall set the time and place for hearing. The pe-  
9 titioner shall give notice to any person entitled to notice under section  
10 16-1505, Idaho Code, the authorized agency having legal custody of the child  
11 and the guardian ad litem of the child and of a parent. The petitioner shall  
12 give notice to the Idaho department of health and welfare if the petition for  
13 termination was not filed in conjunction with a petition for adoption or by  
14 an adoption agency licensed by the state of Idaho.

15 (2) Notice shall be given by personal service on the parents or  
16 guardian. Where reasonable efforts to effect personal service have been un-  
17 successful or are impossible because the whereabouts of parties entitled to  
18 notice are not known or reasonably ascertainable, the court shall order ser-  
19 vice by registered or certified mail to the last known address of the person  
20 to be notified and by publication once a week for three (3) successive weeks  
21 in a newspaper or newspapers to be designated by the court as most likely  
22 to give notice to the person to be served. The hearing shall take place no  
23 sooner than ten (10) days after service of notice, or where service is by  
24 registered or certified mail and publication, the hearing shall take place  
25 no sooner than ten (10) days after the date of last publication.

26 (3) Notice and appearance may be waived by a parent in writing and wit-  
27 nessed by a district judge or magistrate of a district court, or equivalent  
28 judicial officer of the state, where a person waiving notice and appearance  
29 resides or is present, whether within or without the county, and shall be  
30 substantially in the following form:

31 IN THE DISTRICT COURT OF THE .... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN  
32 AND FOR THE COUNTY OF ....

33 In the Matter of the termination )  
34 of the parental rights to )  
35 ..... )  
36 ..... )  
37 (a) minor child(ren)

38 I (we), the undersigned, being the .... of ....., do hereby waive my  
39 (our) right to notice and my (our) right to appear in any action seeking  
40 termination of my (our) parental rights. I (we) understand that by waiv-  
41 ing notice and appearance my (our) parental right(s), to the said ....., who  
42 was born ....., ....., unto ....., may be completely and forever terminated,  
43 including all legal rights, privileges, duties and obligations, including  
44 all rights of inheritance to and from the said ....., and I (we) do hereby  
45 expressly waive my (our) right(s) to notice of or appearance in any such  
46 action.

47 DATED: ....., 20..  
48 .....

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

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

10 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official  
11 seal the day and year in this certificate first above written.

12 .....  
13 (District Judge or Magistrate)

14 (4) The court shall accept a waiver of notice and appearance executed in  
15 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 waiver of notice and appear-  
20 ance 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 waiver  
22 of notice and appearance was executed in accordance with the laws of the  
23 state in which it was executed.

24 (5) When the termination of the parent and child relationship is sought  
25 and the parent is determined to be incompetent to participate in the pro-  
26 ceeding, the court shall appoint a guardian ad litem for the alleged incom-  
27 petent parent. The court may in any other case appoint a guardian ad litem,  
28 as may be deemed necessary or desirable, for any party. Except as provided  
29 in section 16-1504(5), Idaho Code, where the a putative father has failed  
30 to timely commence proceedings to establish paternity under section 7-1111,  
31 Idaho Code, and by filing or has failed to timely file notice of his filing  
32 of proceedings to establish his paternity of his child born out of wedlock  
33 under section 16-1513, Idaho Code, with the vital statistics unit of the de-  
34 partment of health and welfare, notice of his commencement of proceedings to  
35 establish his paternity of the child born out of wedlock, notice under this  
36 section is not required unless such putative father is one of those persons  
37 specifically set forth in section 16-1505(1), Idaho Code.

38 (6) If a parent fails to file a claim of parental rights pursuant to  
39 the provisions of chapter 82, title 39, Idaho Code, for a child left with a  
40 safe haven pursuant thereto, prior to entry of an order terminating their  
41 parental rights, that parent is deemed to have abandoned the child and waived  
42 and surrendered any right in relation to the child, including the right to  
43 notice of any judicial proceeding in connection with the termination of  
44 parental rights.

45 SECTION 7. That Section 16-2008, Idaho Code, be, and the same is hereby  
46 amended to read as follows:

47 16-2008. INVESTIGATION PRIOR TO DISPOSITION. a-(1) If a petition for  
48 adoption is not filed in conjunction with a petition for termination, or the  
49 petition for termination was not filed by a children's adoption agency li-

1 censed by the state of Idaho upon the filing of a petition for termination,  
 2 the court shall direct the department of health and welfare, bureau of child  
 3 support ~~enforcement~~ services to submit a written financial analysis report  
 4 within thirty (30) days from date of notification, detailing the amount of  
 5 any unreimbursed public assistance moneys paid by the state of Idaho on be-  
 6 half of the child. The financial analysis shall include recommendations re-  
 7 garding repayment of unreimbursed public assistance and provisions for fu-  
 8 ture support for the child, and the reasons therefor.

9 ~~b.~~(2) Upon the filing of a petition, the court may direct, in all cases  
 10 where written consent to termination has not been given as provided in this  
 11 ~~act~~ chapter, that an investigation be made by the department of health and  
 12 welfare, division of family and ~~children's~~ community services, or a licensed  
 13 children's adoption agency, and that a report in writing of such study be  
 14 submitted to the court prior to the hearing, except that where the department  
 15 of health and welfare or a licensed children's adoption agency is a peti-  
 16 tioner, either in its own right or on behalf of a parent, a report in writing  
 17 of the investigation made by such agency shall accompany the petition. The  
 18 department of health and welfare or the licensed children's adoption agency  
 19 shall have thirty (30) days from notification by the court during which it  
 20 shall complete and submit its investigation unless an extension of time is  
 21 granted by the court upon application by the agency. The court may order  
 22 additional investigation as it deems necessary. The social study shall in-  
 23 clude the circumstances of the petition, the investigation, the present con-  
 24 dition of the child and parents, proposed plans for the child, and such other  
 25 facts as may be pertinent to the parent and child relationship, and the re-  
 26 port submitted shall include a recommendation and the reasons therefor as to  
 27 whether or not the parent and child relationship should be terminated. If  
 28 the parent has a disability as defined in this chapter, the parent shall have  
 29 the right, as a part of the social study, to provide information regarding  
 30 the manner in which the use of adaptive equipment or supportive services will  
 31 enable the parent to carry out the responsibilities of parenting the child.  
 32 The person performing the social investigation shall advise the parent of  
 33 such right and shall consider all such information in any findings or recom-  
 34 mendations. The social study shall be conducted by, or with the assistance  
 35 of, an individual with expertise in the use of such equipment and services.  
 36 Nothing in this section shall be construed to create any new or additional  
 37 obligations on state or local governments to purchase or provide adaptive  
 38 equipment or supportive services for parents with disabilities. Where the  
 39 parent is a minor, if the report does not include a statement of contact with  
 40 the parents of said minor, the reasons therefor shall be set forth. The pur-  
 41 pose of the investigation is to aid the court in making disposition of the pe-  
 42 tition and shall be considered by the court prior thereto.

43 ~~e.~~(3) Except as provided in section 16-1504(5), Idaho Code, no social  
 44 study or investigation as provided for in subsection ~~b.~~(2) of this section  
 45 shall be directed by the court with respect to the putative father who has  
 46 failed to timely commence proceedings to establish paternity under section  
 47 7-1111, Idaho Code, and by filing or who has failed to timely file notice of  
 48 his filing of proceedings to establish his paternity of his child born out of  
 49 wedlock under section 16-1513, Idaho Code, with the vital statistics unit of  
 50 the department of health and welfare, notice of his commencement of proceed-

1 ~~ings to establish his paternity of the child,~~ unless such putative father is  
2 one (1) of those persons specifically set forth in section 16-1505(1), Idaho  
3 Code.