

IN THE SENATE

SENATE BILL NO. 1015

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 SECTION 7-1115, IDAHO CODE,
4 TO PROVIDE FOR EVIDENCE THAT IS INADMISSIBLE IN A PROCEEDING TO ESTAB-
5 LISH PATERNITY; AMENDING SECTION 16-1504, IDAHO CODE, TO REVISE TERMI-
6 NOLOGY, TO REVISE PROVISIONS RELATING TO THE RIGHTS OF PUTATIVE FATHERS
7 WHOSE CHILDREN HAVE BEEN PLACED WITH ADOPTIVE PARENTS, TO REVISE PROVI-
8 SIONS RELATING TO PUTATIVE FATHERS WHO DO NOT COMPLY WITH THE PROCEDURES
9 FOR ESTABLISHING PARENTAL RIGHTS, TO PROVIDE THAT AN UNMARRIED BIOLOG-
10 ICAL FATHER MUST FILE A PROCEEDING TO ESTABLISH PATERNITY PRIOR TO THE
11 DATE OF FILING OF A PROCEEDING TO TERMINATE RIGHTS OF THE BIRTH MOTHER
12 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1513, IDAHO
13 CODE, TO PROVIDE THAT REGISTRATION OF NOTICE OF FILING OF PROCEEDINGS
14 COMMENCES ESTABLISHMENT OF PATERNITY, TO PROVIDE CODE REFERENCES, TO
15 PROVIDE THAT NOTICE TO A PUTATIVE FATHER OF PROCEEDINGS FOR ADOPTION
16 CONSTITUTES IMPLIED CONSENT, TO PROVIDE FOR REVOCATION OF NOTICE OF
17 INTENT TO CLAIM PATERNITY, TO PROVIDE FOR REMOVAL OF A PUTATIVE FATHER
18 FROM THE PUTATIVE FATHER REGISTRY, TO PROVIDE FOR FEES TO COVER COSTS,
19 TO REVISE TERMINOLOGY, TO PROVIDE FOR PAMPHLETS AND PUBLIC NOTICE RE-
20 GARDING THE PUTATIVE FATHER REGISTRY, TO PROVIDE A PENALTY FOR FALSELY
21 REGISTERING AS A PUTATIVE FATHER AND TO MAKE TECHNICAL CORRECTIONS;
22 AMENDING SECTION 16-2007, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND
23 TO PROVIDE FOR FATHERS WHO HAVE FAILED TO TIMELY FILE NOTICE OF FILING
24 OF PROCEEDINGS; AND AMENDING SECTION 16-2008, IDAHO CODE, TO PROVIDE A
25 CODE REFERENCE, TO PROVIDE FOR FATHERS WHO HAVE FAILED TO TIMELY FILE
26 NOTICE OF FILING OF PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS.
27

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

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

31 7-1107. LIMITATION OF ACTION. (1) Except as provided in section
32 16-1504(9), Idaho Code, a pProceedings to establish paternity of the child
33 under the provisions of this chapter may be instituted only either before
34 or after the birth of the child and but must be instituted before the child
35 reaches the age of majority as defined in section 32-101, Idaho Code.

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

39 SECTION 2. That Section 7-1115, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 7-1115. TESTIMONY AND EVIDENCE RELATING TO PATERNITY. (1) Evidence
 2 relating to paternity, whether given at the trial or the pretrial hearing,
 3 may include, but is not limited to:

4 (1a) Evidence of sexual intercourse between the mother and alleged fa-
 5 ther at any possible time of conception;

6 (2b) An expert's opinion concerning the statistical probability of
 7 the alleged father's paternity based upon the duration of the mother's
 8 pregnancy;

9 (3c) The statistical probability of the alleged father's paternity
 10 based upon the genetic tests; or

11 (4d) Medical, scientific or genetic evidence relating to the alleged
 12 father's paternity of the child based on tests performed by experts; or

13 (5e) A voluntary acknowledgment of paternity executed under section
 14 7-1106, Idaho Code.

15 (2) Evidence that the mother or the father did or did not voluntarily
 16 consent to the adoption of the child or to the relinquishment of parental
 17 rights shall not be admissible in any proceeding to establish paternity, to
 18 order support or to determine custody as set forth in this chapter.

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

21 16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption is re-
 22 quired from:

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

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

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

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

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

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

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

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

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

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

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

47 (a) (i) With regard to a child who is placed with adoptive parents more
 48 than six (6) months after birth, an unmarried biological father
 49 shall have developed a substantial relationship with the child,

1 taken some measure of responsibility for the child and the child's
 2 future, and demonstrated a full commitment to the responsibili-
 3 ties of parenthood by financial support of the child, of a fair and
 4 reasonable sum and in accordance with the father's ability, when
 5 not prevented from doing so by the person or authorized agency hav-
 6 ing lawful custody of the child, and either:

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

11 2. Have regular communication with the child or with the
 12 person or agency having the care or custody of the child,
 13 when physically and financially unable to visit the child,
 14 and when not prevented from doing so by the person or autho-
 15 rized agency having lawful custody of the child.

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

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

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

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

44 (ii) ~~File Filing~~ a notice of ~~his commencement of the~~ proceedings
 45 to establish his paternity of the child with the vital statistics
 46 unit of the department of health and welfare pursuant to section
 47 16-1513, Idaho Code; and

48 (iii) If he had actual knowledge of the pregnancy, paying a fair
 49 and reasonable amount of the expenses incurred in connection with
 50 the mother's pregnancy and the child's birth, in accordance with

1 his means, and when not prevented from doing so by the person or
2 authorized agency having lawful custody of the child.

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

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

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

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

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

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

36 (b) His failure to timely file notice of the filing of proceedings to
37 establish his paternity of the child with the vital statistics unit
38 of the department of health and welfare in accordance with section
39 16-1513, Idaho Code, and his failure to commence timely proceedings to
40 establish paternity of his child in accordance with section 7-1111,
41 Idaho Code, was through no fault of his own; and

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

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

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

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

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

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

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

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

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

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

42 16-1513. REGISTRATION OF NOTICE OF COMMENCEMENT AND FILING OF PATER-
 43 NITY PROCEEDINGS. (1) A person who is the father or claims to be the father
 44 of a child born out of wedlock may claim rights pertaining to his paternity
 45 of the child by commencing proceedings to establish paternity under section
 46 7-1111, Idaho Code, and by filing with the vital statistics unit of the de-
 47 partment of health and welfare notice of his ~~commencement~~ filing of proceed-
 48 ings to establish his paternity of the child born out of wedlock. The vital
 49 statistics unit of the department of health and welfare shall provide forms

1 for the purpose of filing the notice of ~~commencement~~ filing of paternity pro-
 2 ceedings, and the forms shall be made available through the vital statistics
 3 unit of the Idaho department of health and welfare and in the office of the
 4 county clerk in every county of this state. The forms shall include a writ-
 5 ten notification that filing pursuant to this section shall not satisfy the
 6 requirements of chapter 82, title 39, Idaho Code, and the notification shall
 7 also include the following statements:

8 (a) A parent may make a claim of parental rights of an abandoned child,
 9 abandoned pursuant to the provisions of chapter 82, title 39, Idaho
 10 Code, as provided by section 39-8206, Idaho Code, by filing a notice of
 11 claim of parental rights with the vital statistics unit of the depart-
 12 ment of health and welfare on a form as prescribed and provided by the
 13 vital statistics unit of the department of health and welfare;

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

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

24 (d) To be valid, a claim of parental rights of an abandoned child, aban-
 25 doned pursuant to the provisions of chapter 82, title 39, Idaho Code,
 26 must be filed before an order terminating parental rights is entered by
 27 the court. A parent that fails to file a claim of parental rights prior
 28 to entry of an order terminating their parental rights is deemed to have
 29 abandoned the child and waived and surrendered any right in relation to
 30 the child, including the right to notice of any judicial proceeding in
 31 connection with the termination of parental rights or adoption of the
 32 child;

33 (e) Registration of notice of ~~commencement~~ filing of paternity pro-
 34 ceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy
 35 the requirements of chapter 82, title 39, Idaho Code. To register a
 36 parental claim to an abandoned child, abandoned pursuant to the provi-
 37 sions of chapter 82, title 39, Idaho Code, an individual must file an
 38 abandoned child registry claim with the vital statistics unit of the
 39 department of health and welfare and comply with all other provisions of
 40 chapter 82, title 39, Idaho Code, in the time and manner prescribed, in
 41 order to preserve parental rights to the child.

42 When filing a notice of the ~~commencement~~ filing of paternity proceed-
 43 ings, a person who claims to be the father of a child born out of wedlock,
 44 shall file with the vital statistics unit of the department of health and
 45 welfare, the completed form prescribed by the vital statistics unit of the
 46 department of health and welfare. Said form will be filled out completely,
 47 signed by the person claiming paternity, and witnessed before a notary pub-
 48 lic.

49 (2) The notice of the ~~commencement~~ filing of paternity proceedings may
 50 be filed prior to the birth of the child, but must be filed ~~prior to the place-~~

1 ~~ment for adoption of the child in the home of prospective parents or prior~~
2 ~~to the date of commencement the filing of any proceeding to terminate the~~
3 ~~parental rights of the birth mother, whichever event occurs first.~~ The no-
4 ~~tice of the commencement filing of paternity proceedings shall be signed by~~
5 ~~the person filing the notice and shall include his name and address, the name~~
6 ~~and last address of the mother, and either the birth date of the child or the~~
7 ~~probable month and year of the expected birth of the child. The vital sta-~~
8 ~~tistics unit of the department of health and welfare shall maintain a central~~
9 ~~registry for this purpose which that shall be subject to disclosure accord-~~
10 ~~ing to chapter 3, title 9, Idaho Code. The department shall record the date~~
11 ~~and time the notice of the commencement filing of proceedings is filed with~~
12 ~~the department. The notice shall be deemed to be duly filed with the depart-~~
13 ~~ment as of the date and time recorded on the notice by the department.~~

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

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

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

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

42 (7) If a court determines that a putative father is not the biological
43 father of the child born out of wedlock, the court shall order the vital sta-
44 tistics unit of the department of health and welfare to remove his name from
45 the Idaho putative father registry as to that child. Upon receipt of an order
46 providing for the removal of a putative father's name from the registry, the
47 vital statistics unit shall remove the putative father's name from the Idaho
48 putative father registry as to that child.

49 (58) In any adoption proceeding pertaining to a child born out of wed-
50 lock, if there is no showing that the putative father has consented to the

1 adoption, a certificate shall be obtained from the vital statistics unit of
2 the department of health and welfare, signed by the state registrar of vital
3 statistics, which certificate shall state that a diligent search has been
4 made of the registry of notices from putative fathers, and that no filing has
5 been found pertaining to the father of the child in question, or if a fil-
6 ing is found, stating the name of the putative father and the time and date
7 of filing. That certificate shall be filed with the court prior to entry of a
8 final decree of adoption.

9 (~~6~~9) Identities of putative fathers can only be released pursuant to
10 procedures contained in chapter 3, title 9, Idaho Code.

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

23 (~~8~~11) Consistent with its authority denoted in the vital statistics
24 act, section 39-242(c), Idaho Code, the board of health and welfare shall
25 adopt, amend and repeal rules for the purpose of carrying out the provisions
26 of this section.

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

45 (13) Within the limits of continuing annual appropriations duly made
46 available to the department by the legislature for such purposes, each
47 county clerk, branch office of the department of motor vehicles, all of-
48 fices of the department of health and welfare, hospitals and local health
49 districts shall post in a conspicuous place a notice that informs the public

1 about the purpose and operation of the Idaho putative father registry. The
2 notice must include information regarding the following:

3 (a) Where to obtain a registration form;

4 (b) Where to register;

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

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

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

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

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

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

19 16-2007. NOTICE -- WAIVER -- GUARDIAN AD LITEM. (1) After a petition
20 has been filed, the court shall set the time and place for hearing. The pe-
21 titioner shall give notice to any person entitled to notice under section
22 16-1505, Idaho Code, the authorized agency having legal custody of the child
23 and the guardian ad litem of the child and of a parent. The petitioner shall
24 give notice to the Idaho department of health and welfare if the petition for
25 termination was not filed in conjunction with a petition for adoption or by
26 an adoption agency licensed by the state of Idaho.

27 (2) Notice shall be given by personal service on the parents or
28 guardian. Where reasonable efforts to effect personal service have been un-
29 successful or are impossible because the whereabouts of parties entitled to
30 notice are not known or reasonably ascertainable, the court shall order ser-
31 vice by registered or certified mail to the last known address of the person
32 to be notified and by publication once a week for three (3) successive weeks
33 in a newspaper or newspapers to be designated by the court as most likely
34 to give notice to the person to be served. The hearing shall take place no
35 sooner than ten (10) days after service of notice, or where service is by
36 registered or certified mail and publication, the hearing shall take place
37 no sooner than ten (10) days after the date of last publication.

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

43 IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
44 AND FOR THE COUNTY OF

45 In the Matter of the termination)
46 of the parental rights to)

47)

48)

1 (a) minor child(ren)

2 I (we), the undersigned, being the of, do hereby waive my
3 (our) right to notice and my (our) right to appear in any action seeking
4 termination of my (our) parental rights. I (we) understand that by waiv-
5 ing notice and appearance my (our) parental right(s), to the said, who
6 was born,, unto, may be completely and forever terminated,
7 including all legal rights, privileges, duties and obligations, including
8 all rights of inheritance to and from the said, and I (we) do hereby
9 expressly waive my (our) right(s) to notice of or appearance in any such
10 action.

11 DATED:, 20..

12

13 STATE OF IDAHO)

14) ss.

15 COUNTY OF)

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

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

24
25 (District Judge or Magistrate)

26 (4) The court shall accept a waiver of notice and appearance executed in
27 another state if:

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

30 (b) The court receives an affidavit or a certificate from a court of
31 comparable jurisdiction stating that the waiver of notice and appear-
32 ance was executed in accordance with the laws of the state in which it
33 was executed, or the court is satisfied by other showing that the waiver
34 of notice and appearance was executed in accordance with the laws of the
35 state in which it was executed.

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

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

8 SECTION 6. That Section 16-2008, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 16-2008. INVESTIGATION PRIOR TO DISPOSITION. ~~a.~~(1) If a petition for
11 adoption is not filed in conjunction with a petition for termination, or the
12 petition for termination was not filed by a children's adoption agency li-
13 censed by the state of Idaho upon the filing of a petition for termination,
14 the court shall direct the department of health and welfare, bureau of child
15 support ~~enforcement~~ services to submit a written financial analysis report
16 within thirty (30) days from date of notification, detailing the amount of
17 any unreimbursed public assistance moneys paid by the state of Idaho on be-
18 half of the child. The financial analysis shall include recommendations re-
19 garding repayment of unreimbursed public assistance and provisions for fu-
20 ture support for the child, and the reasons therefor.

21 ~~b.~~(2) Upon the filing of a petition, the court may direct, in all cases
22 where written consent to termination has not been given as provided in this
23 ~~act~~ chapter, that an investigation be made by the department of health and
24 welfare, division of family and ~~children's~~ community services, or a licensed
25 children's adoption agency, and that a report in writing of such study be
26 submitted to the court prior to the hearing, except that where the department
27 of health and welfare or a licensed children's adoption agency is a peti-
28 tioner, either in its own right or on behalf of a parent, a report in writing
29 of the investigation made by such agency shall accompany the petition. The
30 department of health and welfare or the licensed children's adoption agency
31 shall have thirty (30) days from notification by the court during which it
32 shall complete and submit its investigation unless an extension of time is
33 granted by the court upon application by the agency. The court may order
34 additional investigation as it deems necessary. The social study shall in-
35 clude the circumstances of the petition, the investigation, the present con-
36 dition of the child and parents, proposed plans for the child, and such other
37 facts as may be pertinent to the parent and child relationship, and the re-
38 port submitted shall include a recommendation and the reasons therefor as to
39 whether or not the parent and child relationship should be terminated. If
40 the parent has a disability as defined in this chapter, the parent shall have
41 the right, as a part of the social study, to provide information regarding
42 the 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 The person performing the social investigation shall advise the parent of
45 such right and shall consider all such information in any findings or recom-
46 mendations. The social study shall be conducted by, or with the assistance
47 of, an individual with expertise in the use of such equipment and services.
48 Nothing in this section shall be construed to create any new or additional
49 obligations on state or local governments to purchase or provide adaptive

1 equipment or supportive services for parents with disabilities. Where the
2 parent is a minor, if the report does not include a statement of contact with
3 the parents of said minor, the reasons therefor shall be set forth. The pur-
4 pose of the investigation is to aid the court in making disposition of the pe-
5 tition and shall be considered by the court prior thereto.

6 ~~e.~~(3) Except as provided in section 16-1504(5), Idaho Code, nNo social
7 study or investigation as provided for in subsection ~~b.~~(2) of this section
8 shall be directed by the court with respect to the putative father who has
9 failed to timely commence proceedings to establish paternity under section
10 7-1111, Idaho Code, and by filing or who has failed to timely file notice of
11 his filing of proceedings to establish his paternity of his child born out of
12 wedlock under section 16-1513, Idaho Code, with the vital statistics unit of
13 the department of health and welfare, ~~notice of his commencement of proceed-~~
14 ~~ings to establish his paternity of the child,~~ unless such putative father is
15 one (1) of those persons specifically set forth in section 16-1505(1), Idaho
16 Code.