

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 435

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO ADOPTION; AMENDING SECTION 16-1504, IDAHO CODE, TO CLARIFY THE
2 CONSENT NECESSARY FOR THE ADOPTION OF AN ADULT AND TO MAKE TECHNICAL
3 CORRECTIONS; AMENDING SECTION 7-1107, IDAHO CODE, TO PROVIDE A CORRECT
4 CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
5 15-5-207, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
6 SECTION 16-1513, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO
7 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-2007, IDAHO CODE, TO
8 PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 16-2008, IDAHO
9 CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORREC-
10 TIONS.
11

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

13 SECTION 1. That Section 16-1504, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption of a
16 child is required from:

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

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

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

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

26 (e) An unmarried biological father of an adoptee only if the require-
27 ments and conditions of subsection (2~~3~~) (a) or (b) of this section have
28 been proven;

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

30 (g) ~~The guardian or conservator of an incapacitated adult, if one has~~
31 ~~been appointed;~~

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

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

36 ~~(j)~~ The father of an illegitimate child who has adopted the child by
37 acknowledgment.

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

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

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

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

4 (a) (i) With regard to a child who is placed with adoptive parents more
5 than six (6) months after birth, an unmarried biological father
6 shall have developed a substantial relationship with the child,
7 taken some measure of responsibility for the child and the child's
8 future, and demonstrated a full commitment to the responsibilities
9 of parenthood by financial support of the child, of a fair and
10 reasonable sum and in accordance with the father's ability, when
11 not prevented from doing so by the person or authorized agency hav-
12 ing lawful custody of the child, and either:

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

17 2. ~~Have~~ Having regular communication with the child or with
18 the person or agency having the care or custody of the child,
19 when physically and financially unable to visit the child,
20 and when not prevented from doing so by the person or autho-
21 rized agency having lawful custody of the child.

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

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

34 (b) With regard to a child who is under six (6) months of age at the
35 time he is placed with adoptive parents, an unmarried biological father
36 shall have manifested a full commitment to his parental responsibil-
37 ities by performing all of the acts described in this subsection and
38 prior to the date of the filing of any proceeding to terminate the
39 parental rights of the birth mother; the filing of any proceeding to
40 adopt the child; or the execution of a consent to terminate the birth
41 mother's parental rights under the provisions of section 16-2005(4),
42 Idaho Code, whichever occurs first. The father shall have strictly com-
43 plied with all of the requirements of this subsection by:

44 (i) Filing proceedings to establish paternity under section
45 7-1111, Idaho Code, and filing with that court a sworn affidavit
46 stating that he is fully able and willing to have full custody of
47 the child, setting forth his plans for the care of the child, and
48 agreeing to a court order of child support and the payment of ex-
49 penses incurred in connection with the mother's pregnancy and the
50 child's birth;

1 (ii) Filing a notice of the proceedings to establish his pater-
 2 nity of the child with the vital statistics unit of the department
 3 of health and welfare pursuant to section 16-1513, Idaho Code; and
 4 (iii) If he had actual knowledge of the pregnancy, paying a fair
 5 and reasonable amount of the expenses incurred in connection with
 6 the mother's pregnancy and the child's birth, in accordance with
 7 his means, and when not prevented from doing so by the person or
 8 authorized agency having lawful custody of the child.

9 (34) An unmarried biological father whose consent is required under
 10 subsection (1) or (23) of this section may nevertheless lose his right to
 11 consent if the court determines, in accordance with the requirements and
 12 procedures of the termination of parent and child relationship act, sections
 13 16-2001 through 16-2015, Idaho Code, that his rights should be terminated,
 14 based on the petition of any party as set forth in section 16-2004, Idaho
 15 Code.

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

27 (56) An unmarried biological father who does not fully and strictly
 28 comply with each of the conditions provided in this section is deemed to have
 29 waived and surrendered any right in relation to the child, including the
 30 right to notice of any judicial proceeding in connection with the adoption of
 31 the child, or for termination of parental rights and his consent to the adop-
 32 tion of the child is not required unless he proves, by clear and convincing
 33 evidence, all of the following:

34 (a) It was not possible for him, prior to the filing of a proceeding to
 35 terminate parental rights of the birth mother; the filing of any pro-
 36 ceeding to adopt the child; or the execution of a consent to terminate
 37 the birth mother's parental rights under the provisions of section
 38 16-2005(4), Idaho Code, whichever occurs first, to:

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

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

45 (b) His failure to timely file notice of the filing of proceedings to
 46 establish his paternity of the child with the vital statistics unit
 47 of the department of health and welfare in accordance with section
 48 16-1513, Idaho Code, and his failure to commence timely proceedings to
 49 establish paternity of his child in accordance with section 7-1111,
 50 Idaho Code, ~~was~~ were through no fault of his own; and

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

9 (~~6~~7) A minor parent has the power to consent to the adoption of his or
10 her child. That consent is valid and has the same force and effect as a con-
11 sent executed by an adult parent. A minor parent, having executed a consent,
12 cannot revoke that consent upon reaching the age of majority or otherwise be-
13 coming emancipated.

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

24 (~~8~~9) The legislature finds that an unmarried biological father who re-
25 sides in another state may not, in every circumstance, be reasonably pre-
26 sumed to know of, and strictly comply with, the requirements of this chapter.
27 Therefore, when all of the following requirements have been met, that unmar-
28 ried biological father may contest an adoption prior to finalization of the
29 decree of adoption and assert his interest in the child:

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

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

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

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

42 (~~9~~10) An unmarried biological father may, under the provisions of sec-
43 tion 7-1107, Idaho Code, file a proceeding to establish his paternity prior
44 to the birth of the child; however, such paternity proceeding must be filed
45 prior to the date of the filing of any proceeding to terminate parental
46 rights of the birth mother; the filing of any proceeding to adopt the child;
47 or the execution of a consent to terminate the birth mother's parental rights
48 under the provisions of section 16-2005(4), Idaho Code, whichever occurs
49 first.

1 SECTION 2. That Section 7-1107, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 7-1107. LIMITATION OF ACTION. (1) Except as provided in section
4 16-1504(910), Idaho Code, a proceeding to establish paternity of the child
5 under the provisions of this chapter may be instituted either before or after
6 the birth of the child but must be instituted before the child reaches the age
7 of majority as defined in section 32-101, Idaho Code.

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

12 SECTION 3. That Section 15-5-207, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 15-5-207. COURT APPOINTMENT OF GUARDIAN OF MINOR -- PROCEDURE. (1)
15 Proceedings for the appointment of a guardian or co-guardians may be initi-
16 ated by the following persons:

- 17 (a) Any relative of the minor;
- 18 (b) The minor if he is fourteen (14) or more years of age;
- 19 (c) Any person who comes within section 15-5-213(1), Idaho Code; or
- 20 (d) Any person interested in the welfare of the minor.

21 (2) Notice of the time and place of hearing of a petition under this
22 section is to be given by the petitioner in the manner prescribed by section
23 15-1-401, Idaho Code, to:

- 24 (a) The minor, if he is fourteen (14) or more years of age;
- 25 (b) The person who has had the principal care and custody of the minor
26 during the sixty (60) days preceding the date of the petition;
- 27 (c) Any person who comes within section 15-5-213(1), Idaho Code; and
- 28 (d) Any living parent of the minor; provided however, that the court may
29 waive notice to a living parent of the minor who is, or is alleged to be,
30 the father of the minor if:

31 (i) The father was never married to the mother of the minor
32 and has failed to register his paternity as provided in section
33 16-1504(45), Idaho Code; or

34 (ii) The court has been shown to its satisfaction circumstances
35 that would allow the entry of an order of termination of parental
36 rights pursuant to section 16-2005, Idaho Code, even though termi-
37 nation of parental rights is not being sought as to such father.

38 (3) (a) As an alternative to appointing one (1) guardian for a minor, the
39 court may appoint no more than two (2) persons as co-guardians for a mi-
40 nor if the court finds:

41 (i) The appointment of co-guardians will best serve the interests
42 of the minor; and

43 (ii) The persons to be appointed as co-guardians will work to-
44 gether cooperatively to serve the best interests of the minor.

45 (b) If the court appoints co-guardians, the court shall also determine
46 whether the guardians:

47 (i) May act independently;

1 (ii) May act independently but must act jointly in specified mat-
2 ters; or

3 (iii) Must act jointly.

4 This determination by the court must be stated in the order of appoint-
5 ment and in the letters of guardianship.

6 (4) If the court finds, upon hearing, that a qualified person seeks ap-
7 pointment, venue is proper, the required notices have been given, the re-
8 quirements of section 15-5-204, Idaho Code, have been met, and the welfare
9 and best interests of the minor will be served by the requested appointment,
10 it shall make the appointment. In other cases the court may dismiss the pro-
11 ceedings, or make any other disposition of the matter that will best serve
12 the interest of the minor.

13 (5) Prior to the appointment of a guardian:

14 (a) The court may appoint a temporary guardian for the minor if it finds
15 by a preponderance of evidence that:

16 (i) A petition for guardianship under this section has been
17 filed, but a guardian has not yet been appointed;

18 (ii) The appointment is necessary to protect the minor's health,
19 safety or welfare until the petition can be heard; and

20 (iii) No other person appears to have the ability, authority and
21 willingness to act.

22 (b) A temporary guardian may be appointed without notice or hearing
23 if the minor is in the physical custody of the petitioner or proposed
24 temporary guardian and the court finds from a statement made under oath
25 that the minor may be immediately and substantially harmed before no-
26 tice can be given or a hearing held.

27 (c) Notice of the appointment of a temporary guardian must be given to
28 those designated in subsection (2) of this section within seventy-two
29 (72) hours after the appointment. The notice must inform interested
30 persons of the right to request a hearing. The court must hold a hearing
31 on the appropriateness of the appointment within ten (10) days after
32 request by an interested person. In all cases, either a hearing on
33 the temporary guardianship or on the petition for guardianship itself
34 must be held within ninety (90) days of the filing of any petition for
35 guardianship of a minor.

36 (d) The temporary guardian's authority may not exceed six (6) months
37 unless extended for good cause. The powers of the temporary guardian
38 shall be limited to those necessary to protect the immediate health,
39 safety or welfare of the minor until a hearing may be held and must in-
40 clude the care and custody of the minor.

41 (e) A temporary guardian must make reports as the court requires.

42 (6) When a minor is under guardianship:

43 (a) The court may appoint a temporary guardian if it finds:

44 (i) Substantial evidence that the previously appointed guardian
45 is not performing the guardian's duties; and

46 (ii) The appointment of a temporary guardian is necessary to pro-
47 tect the minor's health, safety or welfare.

48 (b) A temporary guardian may be appointed without notice or hearing if
49 the court finds from a statement made under oath that the minor may be

1 immediately and substantially harmed before notice can be given or a
2 hearing held.

3 (c) Notice of the appointment of a temporary guardian must be given to
4 those designated in subsection (2) of this section within seventy-two
5 (72) hours after the appointment. The notice must inform interested
6 persons of the right to request a hearing. The court shall hold a hear-
7 ing on the appropriateness of the appointment within ten (10) days after
8 request by an interested person.

9 (d) The authority of a previously appointed guardian is suspended as
10 long as a temporary guardian has authority. The court must hold a hear-
11 ing before the expiration of the temporary guardian's authority and may
12 enter any appropriate order. The temporary guardian's authority may
13 not exceed six (6) months unless extended for good cause.

14 (e) A temporary guardian must make reports as the court requires.

15 (7) The court shall appoint an attorney to represent the minor if the
16 court determines that the minor possesses sufficient maturity to direct the
17 attorney. If the court finds that the minor is not mature enough to direct
18 an attorney, the court shall appoint a guardian ad litem for the minor. The
19 court may decline to appoint an attorney or guardian ad litem if it finds in
20 writing that such appointment is not necessary to serve the best interests of
21 the minor or if the Idaho department of health and welfare has legal custody
22 of the child.

23 (8) Letters of guardianship must indicate whether the guardian was ap-
24 pointed by will or by court order.

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

27 16-1513. REGISTRATION OF NOTICE AND FILING OF PATERNITY PROCEED-
28 INGS. (1) A person who is the father or claims to be the father of a child
29 born out of wedlock may claim rights pertaining to his paternity of the child
30 by commencing proceedings to establish paternity under section 7-1111,
31 Idaho Code, and by filing with the vital statistics unit of the department
32 of health and welfare notice of his filing of proceedings to establish his
33 paternity of the child born out of wedlock. The vital statistics unit of
34 the department of health and welfare shall provide forms for the purpose of
35 filing the notice of filing of paternity proceedings, and the forms shall
36 be made available through the vital statistics unit of the Idaho department
37 of health and welfare and in the office of the county clerk in every county
38 of this state. The forms shall include a written notification that filing
39 pursuant to this section shall not satisfy the requirements of chapter 82,
40 title 39, Idaho Code, and the notification shall also include the following
41 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 filing of paternity proceedings pursuant
19 to chapter 15, title 16, Idaho Code, shall not satisfy the requirements
20 of chapter 82, title 39, Idaho Code. To register a parental claim to
21 an abandoned child, abandoned pursuant to the provisions of chapter 82,
22 title 39, Idaho Code, an individual must file an abandoned child reg-
23 istry claim with the vital statistics unit of the department of health
24 and welfare and comply with all other provisions of chapter 82, title
25 39, Idaho Code, in the time and manner prescribed, in order to preserve
26 parental rights to the child.

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

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

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

49 (4) Except as provided in section 16-1504(~~56~~), Idaho Code, any father
50 of a child born out of wedlock who fails to file and register his notice of

1 the commencement of paternity proceedings pursuant to section 7-1111, Idaho
2 Code, prior to the date of the filing of any proceeding to terminate the
3 parental rights of the birth mother; the filing of any proceeding to adopt
4 the child; or the execution of a consent to terminate the birth mother's
5 parental rights under the provisions of section 16-2005(4), Idaho Code,
6 whichever occurs first, is deemed to have waived and surrendered any right
7 in relation to the child and of any notice to proceedings for adoption of the
8 child or for termination of parental rights of the birth mother. His consent
9 to the adoption of the child shall not be required and he shall be barred from
10 thereafter bringing or maintaining any action to establish his paternity of
11 the child. Failure of such filing or registration shall constitute an aban-
12 donment of said child and shall constitute an irrevocable implied consent in
13 any adoption or termination proceeding.

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

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

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

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

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

49 (10) Consistent with its authority denoted in the vital statistics act,
50 section 39-242(c), Idaho Code, the board of health and welfare shall adopt,

1 amend and repeal rules for the purpose of carrying out the provisions of this
2 section.

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

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

- 28 (a) Where to obtain a registration form;
29 (b) Where to register;
30 (c) The procedures to follow in order to file proceedings to establish
31 paternity of a child born out of wedlock;
32 (d) The consequences of a voluntary acknowledgment of paternity; and
33 (e) The consequences of failure to acknowledge paternity.

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

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

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

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

3 16-2007. NOTICE -- WAIVER -- GUARDIAN AD LITEM. (1) After a petition
4 has been filed, the court shall set the time and place for hearing. The pe-
5 titioner shall give notice to any person entitled to notice under section
6 16-1505, Idaho Code, the authorized agency having legal custody of the child
7 and the guardian ad litem of the child and of a parent. The petitioner shall
8 give notice to the Idaho department of health and welfare if the petition for
9 termination was not filed in conjunction with a petition for adoption or by
10 an adoption agency licensed by the state of Idaho.

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

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

27 IN THE DISTRICT COURT OF THE.... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
28 AND FOR THE COUNTY OF....

29 In the Matter of the termination)
30 of the parental rights to)
31)
32)
33 (a) minor child(ren)

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

43 DATED:....., 20..
44

45 STATE OF IDAHO)
46) ss.
47 COUNTY OF....)

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

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

9
10 (District Judge or Magistrate)

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

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

15 (b) The court receives an affidavit or a certificate from a court of
16 comparable jurisdiction stating that the waiver of notice and appear-
17 ance was executed in accordance with the laws of the state in which it
18 was executed, or the court is satisfied by other showing that the waiver
19 of notice and appearance was executed in accordance with the laws of the
20 state in which it was executed.

21 (5) When the termination of the parent and child relationship is sought
22 and the parent is determined to be incompetent to participate in the proceed-
23 ing, the court shall appoint a guardian ad litem for the alleged incompetent
24 parent. The court may in any other case appoint a guardian ad litem, as may be
25 deemed necessary or desirable, for any party. Except as provided in section
26 16-1504(56), Idaho Code, where a putative father has failed to timely com-
27 mence proceedings to establish paternity under section 7-1111, Idaho Code,
28 or has failed to timely file notice of his filing of proceedings to establish
29 his paternity of his child born out of wedlock under section 16-1513, Idaho
30 Code, with the vital statistics unit of the department of health and welfare,
31 notice under this section is not required unless such putative father is one
32 of those persons specifically set forth in section 16-1505(1), Idaho Code.

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

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

42 16-2008. INVESTIGATION PRIOR TO DISPOSITION. (1) If a petition for
43 adoption is not filed in conjunction with a petition for termination, or
44 the petition for termination was not filed by a children's adoption agency
45 licensed by the state of Idaho upon the filing of a petition for termina-
46 tion, the court shall direct the department of health and welfare, bureau of
47 child support services, to submit a written financial analysis report within
48 thirty (30) days from date of notification, detailing the amount of any unre-
49 imbursed public assistance moneys paid by the state of Idaho on behalf of the

1 child. The financial analysis shall include recommendations regarding re-
2 payment of unreimbursed public assistance and provisions for future support
3 for the child and the reasons therefor.

4 (2) Upon the filing of a petition, the court may direct, in all cases
5 where written consent to termination has not been given as provided in this
6 chapter, that an investigation be made by the department of health and wel-
7 fare, division of family and community services, or a licensed children's
8 adoption agency, and that a report in writing of such study be submitted to
9 the court prior to the hearing, except that where the department of health
10 and welfare or a licensed children's adoption agency is a petitioner, either
11 in its own right or on behalf of a parent, a report in writing of the inves-
12 tigation made by such agency shall accompany the petition. The department
13 of health and welfare or the licensed children's adoption agency shall have
14 thirty (30) days from notification by the court during which it shall com-
15 plete and submit its investigation unless an extension of time is granted by
16 the court upon application by the agency. The court may order additional in-
17 vestigation as it deems necessary. The social study shall include the cir-
18 cumstances of the petition, the investigation, the present condition of the
19 child and parents, proposed plans for the child, and such other facts as may
20 be pertinent to the parent and child relationship, and the report submitted
21 shall include a recommendation and the reasons therefor as to whether or not
22 the parent and child relationship should be terminated. If the parent has a
23 disability as defined in this chapter, the parent shall have the right, as
24 a part of the social study, to provide information regarding the manner in
25 which the use of adaptive equipment or supportive services will enable the
26 parent to carry out the responsibilities of parenting the child. The person
27 performing the social investigation shall advise the parent of such right
28 and shall consider all such information in any findings or recommendations.
29 The social study shall be conducted by, or with the assistance of, an indi-
30 vidual with expertise in the use of such equipment and services. Nothing in
31 this section shall be construed to create any new or additional obligations
32 on state or local governments to purchase or provide adaptive equipment or
33 supportive services for parents with disabilities. Where the parent is a mi-
34 nor, if the report does not include a statement of contact with the parents
35 of said minor, the reasons therefor shall be set forth. The purpose of the
36 investigation is to aid the court in making disposition of the petition and
37 shall be considered by the court prior thereto.

38 (3) Except as provided in section 16-1504(56), Idaho Code, no social
39 study or investigation as provided for in subsection (2) of this section
40 shall be directed by the court with respect to the putative father who has
41 failed to timely commence proceedings to establish paternity under section
42 7-1111, Idaho Code, or who has failed to timely file notice of his filing of
43 proceedings to establish his paternity of his child born out of wedlock under
44 section 16-1513, Idaho Code, with the vital statistics unit of the depart-
45 ment of health and welfare, unless such putative father is one ~~(1)~~ of those
46 persons specifically set forth in section 16-1505(1), Idaho Code.