

IN THE SENATE

SENATE BILL NO. 1371

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO CONDITIONS FOR THE APPOINTMENT OF A GUARDIAN OF A MINOR; AMEND-
2 ING SECTION 15-5-204, IDAHO CODE, TO PROVIDE THAT THE EXTENDED ABSENCE
3 OF A PARENT DUE TO ACTIVE DUTY IN OR DEPLOYMENT WITH THE UNITED STATES
4 ARMED FORCES SHALL NOT BY ITSELF CONSTITUTE NEGLECT, ABUSE, OR ABANDON-
5 MENT OF A MINOR OR FAILURE TO PROVIDE A STABLE HOME ENVIRONMENT FOR A
6 MINOR, TO PROVIDE THAT TEMPORARY GUARDIANSHIPS SHALL BE TERMINATED IM-
7 MEDIATELY UNDER CERTAIN CIRCUMSTANCES, AND TO MAKE TECHNICAL CORREC-
8 TIONS; AND DECLARING AN EMERGENCY.
9

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

11 SECTION 1. That Section 15-5-204, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 15-5-204. COURT APPOINTMENT OF GUARDIAN OF MINOR -- CONDITIONS FOR AP-
14 POINTMENT. (1) The court may appoint a guardian for an unmarried minor if all
15 parental rights of custody have been terminated by prior court order or upon
16 a finding that the child has been neglected, abused, or abandoned, or whose
17 parents are unable to provide a stable home environment. "Abandoned" means
18 the failure of the parent to maintain a normal parental relationship with the
19 child including, but not limited to, reasonable support or regular contact.
20 Failure to maintain a normal parental relationship with the child without
21 just cause for a period of six (6) months shall constitute prima facie evi-
22 dence of abandonment. ~~In all cases~~ Except in those circumstances described
23 in subsections (2) and (3) of this section and where a temporary guardian-
24 ship has been created at the request of a parent on active duty in or deploy-
25 ment with the United States armed forces, the court shall consider the best
26 interests of the child as the primary factor in the determination whether to
27 appoint, and whom to appoint, as a guardian for such child. In determining
28 the choice of a guardian for an unmarried minor, the advanced age or disabil-
29 ity of a potential guardian shall not, in and of itself, be used as a crite-
30 riion of the suitability of the potential guardian ~~so~~ as long as the potential
31 guardian is otherwise suitable. A guardian appointed by will as provided in
32 section 15-5-202, Idaho Code, whose appointment has not been prevented or
33 nullified under section 15-5-203, Idaho Code, has priority over any guardian
34 who may be appointed by the court, but the court may proceed with an appoint-
35 ment nonetheless upon a finding that the testamentary guardian has failed to
36 accept the testamentary appointment within thirty (30) days after notice of
37 the guardianship proceeding.

38 (2) The extended absence of a parent due to active duty in or deployment
39 with the United States armed forces shall not by itself constitute neglect,
40 abuse, abandonment, or failure to provide a stable home environment.

41 (3) Any guardianship granted at the request of or required by the United
42 States armed forces or at the request of a parent while on active duty in or

1 deployment with the United States armed forces, which duty or deployment
2 does not constitute neglect, abuse, abandonment, or failure to provide
3 a stable home environment, shall be terminated immediately upon the con-
4 clusion of the original circumstances necessitating the creation of the
5 temporary guardianship or the filing of a termination report by the parent
6 indicating the parent's intent to resume all care, custody, and control of
7 the minor.

8 SECTION 2. An emergency existing therefor, which emergency is hereby
9 declared to exist, this act shall be in full force and effect on and after its
10 passage and approval.