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Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Senators VANORDEN, Lee, Wintrow and,
Representatives VANDER WOUDE, Erickson, Rubel

FROM: Kyle Slominski - Legislative Drafter

DATE: July 10, 2024

SUBJECT: Temporary Rule

IDAPA 16.06.01 - Child and Family Services - Adoption of Temporary Rule - Docket No.
16-0601-2403

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Kyle Slominski at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2403

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 5, 2024.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. This rule chapter is promulgated pursuant to Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, and 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rule makes the following changes:

1. It eliminated the fee schedule for adoptions through the Department and clarifies that the foster parent home study qualifies for the adoption home study.
2. It defines as “kin” foster parents who have a significant relationship with the child for at least six months.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to reduce a regulatory burden by eliminating the adoption fee schedule.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

This rule eliminates the fee schedule for adoptions through the Department, which is expected to have an annual fiscal impact of less than \$5,000, and the change is necessary to ensure all Idahoans can pursue adoption through the Department.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Alex Adams, Director, 208-334-5500.

DATED this 5th day of June, 2024.

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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0601-2403
(Only Those Sections With Amendments Are Shown.)

16.06.01 – CHILD AND FAMILY SERVICES

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

For the purposes of these rules, the following terms are used: (3-15-22)

01. Family. Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (3-15-22)

02. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and safety threats to family integrity, unity, or the ability to care for their members. (3-15-22)

03. Family Case Record. Electronic and hard copy compilation of all documentation relating to a family, including legal documents, identifying information, and evaluations. (3-15-22)

04. Family (Case) Plan. Also referred to as a family service plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how, and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders or leaders should be consulted early in the plan development. (3-15-22)

05. Family Services Worker. Any of the direct service personnel, including social workers, working in regional Child and Family Services Programs. (3-15-22)

06. Federally-Funded Guardianship Assistance for Relatives. Benefits described in Subsection 702.04 and Section 703 of these rules provided to a relative guardian for the support of a child who is fourteen (14) years of age or older, who, without guardianship assistance, would remain in the legal custody of the Department of Health and Welfare. (3-15-22)

07. Field Office. A Department of Health and Welfare service delivery site. (3-15-22)

~~**08. Goal.** A statement of the long-term outcome or plan for the child and family. (3-15-22)~~

~~**098. Independent Living.** Services provided to eligible foster or former foster youth, ages fourteen (14) to twenty-three (23), designed to support a successful transition to adulthood. (3-15-22)~~

~~**109. Indian.** Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-15-22)~~

~~**110. Indian Child.** Any unmarried person who is under the age of eighteen (18) who is: (3-15-22)~~

~~**a.** A member of an Indian tribe; or (3-15-22)~~

~~**b.** Eligible for membership in an Indian tribe, and who is the biological child of a member of an Indian tribe. (3-15-22)~~

~~**121. Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-15-22)~~

- 132. Indian Child's Tribe.** (3-15-22)
- a. The Indian tribe in which an Indian child is a member or eligible for membership, or (3-15-22)
- b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-15-22)
- 143. Indian Tribe.** Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-15-22)
- 154. Intercountry Adoption Act of 2000 (P.L. 106-279).** Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (3-15-22)
- 165. Interethnic Adoption Provisions of 1996 (IEP).** IEP prohibits delaying or denying the placement of a child for adoption or foster care on race, color or national origin of the adoptive or foster parent(s), or the child involved. (3-15-22)
- 176. Interstate Compact on the Placement of Children (ICPC).** Interstate Compact on the Placement of Children (ICPC) in Title 16, Chapter 21, Idaho Code, ensures that the jurisdictional, administrative, and human rights obligations of interstate placement or transfers of children are protected. (3-15-22)
- 187. Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers, ~~and~~ members of a child's Indian tribe, and foster parents who have a significant relationship with the child for at least six (6) months. Also known as fictive kin. ~~(3-15-22)~~(6-5-24)T

(BREAK IN CONTINUITY OF SECTIONS)

790. FOSTER PARENT ADOPTIONS.

The procedure and requirements are the same for all adoptive applicants. ~~This includes foster parents who want to be considered as adoptive parents for a child who has a plan of adoption. Licensed foster parents with a current home study recommending them for both foster care and adoption do not need an adoption specific home study to adopt a child matching the characteristics of a child or children for whom they are approved or recommended for placement. They are eligible to be considered for adoption as part of the home study process completed to provide foster care.~~ These requirements include compliance with the Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996. ~~(3-15-22)~~(6-5-24)T

(BREAK IN CONTINUITY OF SECTIONS)

801. -- ~~829~~32. (RESERVED)

~~830. ADOPTION APPLICATION FEE.~~

~~The adoption application fee covers the costs of processing the adoption application and does not guarantee that the applicant family will receive a child for adoption. The application fee is non-refundable. Money collected through the Department's adoption program may be utilized to pay state adoption assistance payments for children with special needs and pay the service fees, recruitment costs, and placement fees for private agencies serving children who have special needs.~~ (3-15-22)

~~831. HOME STUDY, SUPERVISORY REPORTS, AND REPORTS OF THE COURT FEES.~~

~~A family who cares for a child, or children, with special needs who is in the custody of the Department is not required to pay the costs of the Department adoption services identified in Section 832 of these rules for the adoption of that child, or children. A relative or kin family being considered by the Department for adoption of a child from foster care who is their relative or kin, is not required to pay the costs referenced in Section 832 of these rules. If a family who did not pay the fee uses that home study to pursue adoption of a child not in the Department's custody, the family must pay the Department for the full cost of the study and any other applicable fees identified in Section 832 of these rules.~~ (3-15-22)

~~832. FEE SCHEDULE – ADOPTIONS THROUGH DEPARTMENT.~~

TABLE 832	
Service	Fee
General Information/Adoption Inquiries	No Charge
Health and Welfare Application-	
-Couple-	\$50
-Single Parent-	\$25
Second Placement or Reapplication	\$25
Pre-placement Home Study – Payment due at time of study or per agreement	\$450
Report to Court under the Adoption Act	\$150
Second Placement	\$150
Placement Supervision Fee – Charged at the time of placement	\$300
Closed Adoption Home Study/Court Report Retrieval Fee	\$50
Report to the Court Under the Termination Act	\$40 per hour

(3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

~~834. -- 849. (RESERVED)~~

~~850. INDEPENDENT, RELATIVE AND STEPPARENT ADOPTIONS.~~

~~Independent adoptive placements are handled under Section 16-1506, Idaho Code.~~

(3-15-22)

~~851. — 859. (RESERVED)~~