

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 463

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO TERMINATION OF PARENT AND CHILD RELATIONSHIPS; AMENDING SECTION
2 16-2005, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONDITIONS UNDER
3 WHICH TERMINATION MAY BE GRANTED; AND DECLARING AN EMERGENCY AND PRO-
4 VIDING AN EFFECTIVE DATE.
5

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

7 SECTION 1. That Section 16-2005, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. (1) The
10 court may grant an order terminating the relationship where it finds that
11 termination of parental rights is in the best interests of the child and that
12 one (1) or more of the following conditions exist:

13 (a) The parent has abandoned the child.

14 (b) The parent has neglected or abused the child.

15 (c) The presumptive parent is not the biological parent of the child.

16 (d) The parent is unable to discharge parental responsibilities and
17 such inability will continue for a prolonged indeterminate period and
18 will be injurious to the health, morals or well-being of the child.

19 (e) The parent has been incarcerated and is likely to remain incarcer-
20 ated for a substantial period of time during the child's minority.

21 (2) The court may grant an order terminating the relationship and may
22 rebuttably presume that such termination of parental rights is in the best
23 interests of the child where:

24 (a) The parent caused the child to be conceived as a result of rape,
25 incest, lewd conduct with a minor child under the age of sixteen (16)
26 years, or sexual abuse of a child under the age of sixteen (16) years, as
27 defined in sections 18-6101, 18-1508, 18-1506, and 18-6601, Idaho Code;

28 (b) The following circumstances are present:

29 (i) Abandonment, chronic abuse or chronic neglect of the child.
30 Chronic neglect or chronic abuse of a child shall consist of abuse
31 or neglect that is so extreme or repetitious as to indicate con-
32 tinuing the relationship would result in unacceptable risk to the
33 health and welfare of the child;

34 (ii) Sexual abuse against a child of the parent, or a conviction of
35 sexual abuse against any child. Sexual abuse, for the purposes of
36 this section, includes any conduct described in section 18-1506,
37 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101, or 18-6604, Idaho
38 Code;

39 (iii) Torture of a child; any conduct described in the code sec-
40 tions listed in section 18-8303(1), Idaho Code; battery or an
41 injury to a child that results in serious or great bodily in-
42 jury to a child; voluntary manslaughter of a child, or aiding or

1 abetting such voluntary manslaughter, soliciting such voluntary
2 manslaughter or attempting or conspiring to commit such voluntary
3 manslaughter;

4 (iv) The parent has committed murder, aided or abetted a murder,
5 solicited a murder or attempted or conspired to commit murder; or

6 (c) The court determines the child to be an abandoned infant, except in
7 a parental termination action brought by one (1) parent against another
8 parent.

9 (3) The court shall not grant an order terminating the relationship
10 based upon the child's immunization status.

11 (4) The court may grant an order terminating the relationship if termi-
12 nation is found to be in the best interest of the parent and child.

13 (5) The court may grant an order terminating the relationship where a
14 consent to termination in the manner and form prescribed by this chapter has
15 been filed by the parent(s) of the child in conjunction with a petition for
16 adoption initiated by the person or persons proposing to adopt the child,
17 or where the consent to termination has been filed by a licensed adoption
18 agency, no subsequent hearing on the merits of the petition shall be held.
19 Consents required by this chapter must be witnessed by a district judge or
20 magistrate of a district court, or equivalent judicial officer of the state,
21 where a person consenting resides or is present, whether within or without
22 the county, and shall be substantially in the following form:

23 IN THE DISTRICT COURT OF THE.... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
24 AND FOR THE COUNTY OF....

25 In the Matter of the termination)
26 of the parental rights of)
27)
28)

29 I (we), the undersigned, being the.... of...., do hereby give my (our)
30 full and free consent to the complete and absolute termination of my (our)
31 parental right(s), to the said...., who was born...., unto...., hereby
32 relinquishing completely and forever, all legal rights, privileges, du-
33 ties and obligations, including all rights of inheritance to and from the
34 said...., and I (we) do hereby expressly waive my (our) right(s) to hear-
35 ing on the petition to terminate my (our) parental relationship with the
36 said...., and respectfully request the petition be granted.

DATED:....., 20..
.....

38
39 STATE OF IDAHO)
40) ss.
41 COUNTY OF....)

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

1 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
2 seal the day and year in this certificate first above written.
3 (District Judge or Magistrate)

4 (6) The court shall accept a consent or a surrender and release executed
5 in another state if:

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

8 (b) The court receives an affidavit or a certificate from a court of
9 comparable jurisdiction stating that the consent or the surrender and
10 release was executed in accordance with the laws of the state in which it
11 was executed, or the court is satisfied by other showing that the con-
12 sent or surrender and release was executed in accordance with the laws
13 of the state in which it was executed.

14 (7) The court shall accept a termination or relinquishment from a sis-
15 ter state that has been ordered by a court of competent jurisdiction under
16 like proceedings; or in any other manner authorized by the laws of a sister
17 state. In a state where the father has failed to file notice of claim to pa-
18 ternity and willingness to assume responsibility as provided for pursuant to
19 the laws of such state, and where such failure constitutes an abandonment of
20 such child and constitutes a termination or relinquishment of the rights of
21 the putative father, the court shall accept such failure as a termination in
22 this state without further hearing on the merits, if the court is satisfied
23 that such failure constitutes a termination or relinquishment of parental
24 rights pursuant to the laws of that state.

25 (8) Unless a consent to termination signed by the parent(s) of the child
26 has been filed by an adoption agency licensed in the state of Idaho, or unless
27 the consent to termination was filed in conjunction with a petition for adop-
28 tion of the child, the court shall hold a hearing.

29 (9) If the parent has a disability, as defined in this chapter, the par-
30 ent shall have the right to provide evidence to the court regarding the man-
31 ner in which the use of adaptive equipment or supportive services will enable
32 the parent to carry out the responsibilities of parenting the child. Nothing
33 in this section shall be construed to create any new or additional obligation
34 on state or local governments to purchase or provide adaptive equipment or
35 supportive services for parents with disabilities.

36 SECTION 2. An emergency existing therefor, which emergency is hereby
37 declared to exist, this act shall be in full force and effect on and after
38 July 1, 2025.