#### LEGISLATURE OF THE STATE OF IDAHO First Regular Session - 2025 Sixty-eighth Legislature

# IN THE SENATE

## SENATE BILL NO. 1021

### BY HEALTH AND WELFARE COMMITTEE

#### AN ACT

- RELATING TO JUVENILE PROCEEDINGS; AMENDING SECTION 16-2005, IDAHO CODE, TO 2 REVISE PROVISIONS REGARDING CONDITIONS UNDER WHICH TERMINATION MAY BE 3 GRANTED AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY 4 AND PROVIDING AN EFFECTIVE DATE. 5
- Be It Enacted by the Legislature of the State of Idaho: 6

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

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

- (a) The parent has abandoned the child-;
- (b) The parent has neglected or abused the child-;
- (c) The presumptive parent is not the biological parent of the child-;

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

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

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:

- (a) The parent caused the child to be conceived as a result of rape, 24 incest, lewd conduct with a minor child under the age of sixteen (16) 25 years, or sexual abuse of a child under the age of sixteen (16) years, as 26 defined in sections 18-6101, 18-1508, 18-1506, and 18-6601, Idaho Code; 27 28 (b) The following circumstances are present:
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Abandonment, chronic abuse or chronic neglect of the child. (i) Chronic neglect or chronic abuse of a child shall consist of abuse 30 or neglect that is so extreme or repetitious as to indicate con-31 tinuing the relationship would result in unacceptable risk to the 32 health and welfare of the child; 33

- (ii) Sexual abuse against a child of the parent. Sexual abuse, for 34 the purposes of this section, includes any conduct described in 35 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101, 36 or 18-6604, Idaho Code; 37
- (iii) Torture of a child; any conduct described in the code sec-38 39 tions listed in section 18-8303(1), Idaho Code; battery or an injury to a child that results in serious or great bodily in-40 jury to a child; voluntary manslaughter of a child, or aiding or 41 abetting such voluntary manslaughter, soliciting such voluntary 42

manslaughter or attempting or conspiring to commit such voluntary 1 manslaughter; 2 (iv) The parent has committed murder, aided or abetted a murder, 3 solicited a murder or attempted or conspired to commit murder; or 4 5 (c) The court determines the child to be an abandoned infant, except in a parental termination action brought by one (1) parent against another 6 7 parent. The court shall not grant an order terminating the relationship (3) 8 based upon on the child's immunization status. 9 (4) The court may grant an order terminating the relationship if termi-10 11 nation is found to be in the best interest of the parent and child. (5) The court may grant an order terminating the relationship where a 12 consent to termination in the manner and form prescribed by this chapter has 13 been filed by the parent(s) or parents of the child in conjunction with a pe-14 tition for adoption initiated by the person or persons proposing to adopt the 15 16 child, or where the consent to termination has been filed by a licensed adoption agency, or where the termination is initiated by the department per-17 taining to a child who is in the legal custody of the department, and no sub-18 sequent hearing on the merits of the petition shall be held. Consents re-19 quired by this chapter must be witnessed by a district judge or magistrate of 20 21 a district court, or equivalent judicial officer of the state, where a person consenting resides or is present, whether within or without the county, and 22 shall be substantially in the following form: 23 24 IN THE DISTRICT COURT OF THE.... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF.... 25 In the Matter matter of the termination ) 26 27 of the parental rights of ) 28 . . . . . . . . . . . . . . . . . . . ) 29 . . . . . . . . . . . . . . . . . . . ) 30 I (we), the undersigned, being the.... of...., do hereby give my (our) 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. 37 38 DATED:..., 20... 39 . . . . . . . . . . . . . . . . STATE OF IDAHO 40 ) 41 ) ss. COUNTY OF.... ) 42

On this.... day of..., 20.., before me, the undersigned..., 44 (Judge or Magistrate) of the District Court of the... Judicial District of the state of Idaho, in and for the county of..., personally appeared..., 46 known to me (or proved to me on the oath of...) to be the person(s) whose 17 name(s) is (are) subscribed to the within instrument, and acknowledged to me 48 that he (she, they) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official 1 2 seal the day and year in this certificate first above written. ..... (District Judge or Magistrate) 3 4 (6) The court shall accept a consent or a surrender and release executed in another state if: 5 (a) It is witnessed by a magistrate or district judge of the state where 6 7 signed; or The court receives an affidavit or a certificate from a court of 8 (b) 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 was executed, or the court is satisfied by other showing that the con-11 sent or surrender and release was executed in accordance with the laws 12 of the state in which it was executed. 13 (7) The court shall accept a termination or relinquishment from a sis-14 15 ter state that has been ordered by a court of competent jurisdiction under like proceedings; or in any other manner authorized by the laws of a sister 16 state. In a state where the father has failed to file notice of claim to pa-17 ternity and willingness to assume responsibility as provided for pursuant to 18 the laws of such state, and where such failure constitutes an abandonment of 19 20 such child and constitutes a termination or relinquishment of the rights of the putative father, the court shall accept such failure as a termination in 21 this state without further hearing on the merits  $\tau$  if the court is satisfied 22 that such failure constitutes a termination or relinquishment of parental 23 rights pursuant to the laws of that state. 24 (8) Unless a consent to termination signed by the parent (s) of the child 25 has been filed by an adoption agency licensed in the state of Idaho, or unless 26 the consent to termination was filed in conjunction with a petition for adop-27 tion of the child, the court shall hold a hearing. 28 (8) The court shall hold a hearing unless: 29 (a) A consent to termination signed by the parent or parents of the 30 child has been filed by an adoption agency licensed in the state of 31 Idaho; 32 33 (b) A consent to termination was filed in conjunction with a petition for adoption of the child; or 34 The termination is initiated by the department pertaining to a 35 (C) child who is in the legal custody of the department. 36 (9) If the parent has a disability, as defined in this chapter, the par-37 38 ent shall have the right to provide evidence to the court regarding the manner in which the use of adaptive equipment or supportive services will enable 39 the parent to carry out the responsibilities of parenting the child. Nothing 40 in this section shall be construed to create any new or additional obligation 41 on state or local governments to purchase or provide adaptive equipment or

SECTION 2. An emergency existing therefor, which emergency is hereby 44 declared to exist, this act shall be in full force and effect on and after 45 July 1, 2025. 46

supportive services for parents with disabilities.

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