

IN THE SENATE

SENATE BILL NO. 1090

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO JUVENILE PROCEEDINGS; AMENDING SECTION 16-1622, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING REVIEW HEARINGS; AMENDING SECTION 16-2002,
3 IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 16-2005, IDAHO
4 CODE, TO REVISE PROVISIONS REGARDING CONDITIONS UNDER WHICH TERMI-
5 NATION MAY BE GRANTED; AND DECLARING AN EMERGENCY AND PROVIDING AN
6 EFFECTIVE DATE.
7

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

9 SECTION 1. That Section 16-1622, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 16-1622. REVIEW HEARINGS -- STATUS HEARINGS -- ANNUAL PERMANENCY
12 HEARINGS. (1) Review hearing.

13 (a) A hearing for review of the child's case and permanency plan shall
14 be held no later than six (6) months after entry of the court's order
15 taking jurisdiction under this act and every ~~six (6)~~ two (2) months
16 thereafter. The department and the guardian ad litem shall file reports
17 to the court no later than five (5) days prior to the ~~six (6)~~ two (2)
18 month review hearing. The purpose of the review hearing is:

19 (i) To determine:

- 20 1. The safety of the child;
- 21 2. The continuing necessity for and appropriateness of the
22 placement;
- 23 3. The extent of compliance with the case plan; and
- 24 4. The extent of progress that has been made toward alle-
25 viating or mitigating the causes necessitating placement in
26 foster care;

27 (ii) To determine or continue to investigate whether the child is
28 an Indian child. If there is reason to believe that the child is an
29 Indian child and there has not been a final determination regard-
30 ing the child's status as an Indian child:

- 31 1. The department shall document and the court shall inquire
32 about the efforts that have been made since the last hearing
33 to determine whether the child is an Indian child; and
- 34 2. The department shall document and the court shall de-
35 termine that the department is using active efforts to work
36 with all tribes of which the child may be a member to verify
37 whether the child is a member or eligible for membership;

38 (iii) To inquire regarding the child's educational stability. The
39 department shall document and the court shall inquire as to the ef-
40 forts made to ensure educational stability for the child, includ-
41 ing the efforts made to keep the child in the school in which the

1 child is enrolled at the time of placement or the reason that re-
2 maining in the school is not in the child's best interests;

3 (iv) To inquire regarding sibling placement. The department
4 shall document and the court shall inquire whether siblings were
5 placed together or, if siblings were not placed together, the
6 efforts made to place siblings together, the reasons why sib-
7 lings were not placed together, and a plan for ensuring frequent
8 visitation or ongoing interaction between the siblings, unless
9 visitation or ongoing interaction would be contrary to the safety
10 or well-being of one (1) or more of the siblings;

11 (v) To inquire regarding permanency. The court shall ask each
12 youth age twelve (12) years and older about his desired permanency
13 outcome and discuss with the youth his current permanency plan.
14 For a youth age fourteen (14) years and older, the hearing shall
15 include a review of the services needed to assist the youth to make
16 the transition from foster care to successful adulthood;

17 (vi) To document efforts related to the reasonable and prudent
18 parent standard. For a youth whose permanency goal is another
19 planned permanent living arrangement, the department shall docu-
20 ment:

21 1. That the youth's foster parents or child care institution
22 is following the reasonable and prudent parent standard when
23 deciding whether the child may participate in extracurricu-
24 lar, enrichment, cultural and social activities; and

25 2. The regular, ongoing opportunities to engage in age- or
26 developmentally appropriate activities that have been pro-
27 vided to the youth;

28 (vii) To document efforts made to find a permanent placement other
29 than another planned permanent living arrangement. For a youth
30 whose permanency goal is another planned permanent living ar-
31 rangement, the department shall document:

32 1. The intensive, ongoing, and, as of the date of the hear-
33 ing, unsuccessful efforts made to place the youth with a par-
34 ent, in an adoptive placement, in a guardianship, or in the
35 legal custody of the department in a placement with a fit and
36 willing relative, including an adult sibling; and

37 2. Why another planned permanent living arrangement is the
38 best permanency plan for the youth and a compelling reason
39 why, as of the date of the review hearing, it would not be in
40 the best interest of the child to be placed permanently with
41 a parent, in an adoptive placement, in a guardianship, or in
42 the legal custody of the department in a placement with a fit
43 and willing relative, including an adult sibling;

44 (viii) To make findings regarding a permanency goal of another
45 planned permanent living arrangement. For youth whose permanency
46 goal is another planned permanent living arrangement, the court
47 shall make written, case-specific findings, as of the date of the
48 hearing, that:

49 1. Another planned permanent living arrangement is the best
50 permanency goal for the youth; and

1 2. There are compelling reasons why it is not in the best in-
2 interest of the youth to be placed permanently with a parent,
3 in an adoptive placement, in a guardianship, or in the legal
4 custody of the department in a placement with a fit and will-
5 ing relative, including an adult sibling;

6 (ix) To document and inquire regarding psychotropic medication.
7 At each review hearing, if the child is being treated with psy-
8 chotropic medication, these additional requirements shall apply:

9 1. The department shall report to the court the medication
10 and dosage prescribed for the child and the medical profes-
11 sional who prescribed the medication; and

12 2. The court shall inquire as to, and may make any additional
13 inquiry relevant to, the use of psychotropic medication; and

14 (x) To project, when reasonable, a likely date by which the child
15 may be safely returned to and maintained in the home or placed in
16 another permanent placement.

17 (b) A status hearing is a review hearing that does not address all or
18 most of the purposes identified in paragraph (a) of this subsection and
19 may be held at the discretion of the court. Neither the department nor
20 the guardian ad litem is required to file a report with the court prior
21 to a status hearing, unless ordered otherwise by the court.

22 (c) A motion for revocation or modification of an order issued un-
23 der section 16-1619, Idaho Code, may be filed by the department or any
24 party; provided that no motion may be filed by the respondents under
25 this section within three (3) months of a prior hearing on care and
26 placement of the child. Notice of a motion for review of a child's case
27 shall be provided to the parents and other legal guardians, the prose-
28 cuting attorney or deputy attorney general, guardian ad litem, attorney
29 for the child, the department and foster parents.

30 (d) If the motion filed under paragraph (c) of this subsection alleges
31 that the child's best interests are no longer served by carrying out the
32 order issued under section 16-1619, Idaho Code, or that the department
33 or other authorized agency has failed to provide adequate care for the
34 child, the court shall hold a hearing on the motion.

35 (e) The department or authorized agency may move the court at any time
36 to vacate any order placing a child in its custody or under its protec-
37 tive supervision.

38 (2) Permanency plan and hearing.

39 (a) The permanency plan shall include a permanency goal. The per-
40 manency goal may be one (1) of the following: continued efforts at
41 reunification, in the absence of a judicial determination of aggra-
42 vated circumstances; or termination of parental rights and adoption,
43 guardianship or, for youth age sixteen (16) years and older only, an-
44 other planned permanent living arrangement. Every permanency plan
45 shall include the information set forth in section 16-1621(3) (a) and
46 (b), Idaho Code. If the permanency plan has reunification as a per-
47 manency goal, the plan shall include information set forth in section
48 16-1621(3) (c), Idaho Code; however, if the circumstances that caused
49 the child to be placed into protective custody resulted in a conviction
50 for lewd and lascivious conduct or felony injury to a child, if the child

1 has been in protective custody for more than six (6) months, or if a
2 high risk of repeat maltreatment or reentry into foster care exists due
3 to a parent's recent completion of substance abuse treatment or other
4 compelling circumstances, then the permanency plan shall include a
5 period of protective supervision or trial home visit period of no less
6 than ninety (90) days prior to the court vacating the case. During the
7 protective supervision or trial home visit period, the department shall
8 make regular home visits. During the protective supervision or trial
9 home visit period, the court shall hold one (1) or more review hearings
10 for each permanency plan where a period of protective supervision or a
11 trial home visit has been imposed and may require participation in sup-
12 portive services, including community home visiting and peer-to-peer
13 mentoring. Families reunified following a period of protective super-
14 vision or a trial home visit should be encouraged by the department or
15 the court to continue to participate in supportive services when ben-
16 efiticial and appropriate. If the permanency plan has a permanency goal
17 other than reunification, the plan shall include the information set
18 forth in section 16-1621(3) (d), Idaho Code, and if the permanency goal
19 is termination of parental rights and adoption, then in addition to the
20 information set forth in section 16-1620(3), Idaho Code, the permanency
21 plan shall also name the proposed adoptive parents when known. If the
22 adoptive parents are not known at the time the permanency plan is pre-
23 pared, then the department shall amend the plan to name the proposed
24 adoptive parents as soon as such person or persons become known. The
25 court may approve a permanency plan that includes a primary goal and a
26 concurrent goal. As used in this paragraph, "trial home visit" means
27 that a child is returned to the care of the parent or guardian from whom
28 the child was removed with the department continuing to have legal cus-
29 tody of the child.

30 (b) A permanency hearing shall be held no later than twelve (12) months
31 from the date the child is removed from the home or the date of the
32 court's order taking jurisdiction under this chapter, whichever occurs
33 first, and at least every twelve (12) months thereafter, as long as the
34 court has jurisdiction over the child. The court shall approve, reject
35 or modify the permanency plan of the department and review progress in
36 accomplishing the permanency goal. The permanency plan, as approved by
37 the court, shall be entered into the record as an order of the court. A
38 permanency hearing may be held at any time and may be combined with the
39 review hearing required under subsection (1) of this section.

40 (c) The court shall make written, case-specific findings whether the
41 department made reasonable efforts to finalize the primary permanency
42 goal in effect for the child. Lack of reasonable efforts to reunify may
43 be a basis for an order approving a permanency plan with a permanency
44 goal of reunification.

45 (d) Where the permanency goal is not reunification, the hearing shall
46 include a review of the department's consideration of options for
47 in-state and out-of-state placement of the child. In the case of a
48 child in an out-of-state placement, the court shall determine whether
49 the out-of-state placement continues to be appropriate and in the best
50 interest of the child.

1 (e) The court shall ask each youth age twelve (12) years and older about
2 his desired permanency outcome and discuss with the youth his current
3 permanency plan. In the case of a child who has attained the age of four-
4 teen (14) years and older, the hearing shall include a determination of
5 the services needed to assist the youth to make the transition from fos-
6 ter care to successful adulthood.

7 (f) The court may approve a primary permanency goal of another planned
8 permanent living arrangement only for youth age sixteen (16) years or
9 older and only upon written, case-specific findings that, as of the date
10 of the hearing:

11 (i) Another planned permanent living arrangement is the best per-
12 manency goal for the youth; and

13 (ii) There are compelling reasons why it is not in the best inter-
14 est of the youth to be placed permanently with a parent, in an adop-
15 tive placement, in a guardianship, or in the legal custody of the
16 department in a placement with a fit and willing relative, includ-
17 ing an adult sibling.

18 (g) If the child has been in the temporary or legal custody of the de-
19 partment for ~~fifteen (15)~~ twelve (12) of the most recent twenty-two (22)
20 months, the department shall file, prior to the last day of the fif-
21 teenth month, a petition to terminate parental rights, unless the court
22 finds that:

23 (i) The child is placed permanently with a relative;

24 (ii) There are compelling reasons why termination of parental
25 rights is not in the best interests of the child; or

26 (iii) The department has failed to provide reasonable efforts to
27 reunify the child with his family.

28 (h) The department shall document and the court shall inquire:

29 (i) As to the efforts made to ensure educational stability for the
30 child, including the efforts made to keep the child in the school
31 in which the child is enrolled at the time of placement or that re-
32 maining in the school is not in the child's best interests; and

33 (ii) That siblings were placed together, or, if siblings were not
34 placed together, the efforts made to place siblings together, the
35 reasons why siblings were not placed together or why a joint place-
36 ment would be contrary to the safety or well-being of one (1) or
37 more of the siblings, and a plan for ensuring frequent visitation
38 or ongoing interaction among siblings, unless visitation or ongo-
39 ing interaction would be contrary to the safety or well-being of
40 one (1) or more of the siblings.

41 (i) If there is reason to believe that the child is an Indian child and
42 there has not been a final determination regarding the child's status as
43 an Indian child, the department shall document and the court shall:

44 (i) Inquire about the efforts that have been made since the last
45 hearing to determine whether the child is an Indian child; and

46 (ii) Determine that the department has made active efforts to work
47 with all tribes of which the child may be a member to verify whether
48 the child is a member or eligible for membership.

49 (j) At each permanency hearing, if the child is being treated with psy-
50 chotropic medication, these additional requirements shall apply:

1 (i) The department shall report to the court the medication and
2 dosage prescribed for the child and the medical professional who
3 prescribed the medication; and

4 (ii) The court shall inquire as to, and may make any additional
5 inquiry relevant to, the use of psychotropic medication.

6 (k) The court may authorize the department to suspend further efforts
7 to reunify the child with the child's parent, pending further order of
8 the court, when a permanency plan is approved by the court and the perma-
9 nency plan does not include a permanency goal of reunification.

10 (3) If a youth is in the legal custody of the department or other autho-
11 rized agency and is within ninety (90) days of his eighteenth birthday, the
12 department shall file a report with the court that includes the department's
13 transition plan for the youth. The court shall have a review or permanency
14 hearing at which the court shall:

15 (a) Discuss with the youth his or her transition plan; and

16 (b) Review the transition plan with the youth for purposes of ensur-
17 ing that the plan provides the services necessary to allow the youth to
18 transition to a successful adulthood.

19 (4) If a child is in the legal custody of the department and the court
20 has approved placement of the child in a qualified residential treatment
21 program, then at each review hearing pursuant to subsection (1) (a) of this
22 section and at each permanency hearing pursuant to subsection (2) (b) of this
23 section the department shall document:

24 (a) That ongoing assessment of the strengths and needs of the child con-
25 tinues to support the determination that the needs of the child cannot
26 be met through placement in a foster family home, that the placement in
27 a qualified residential treatment program provides the most effective
28 and appropriate level of care for the child that is in the least restric-
29 tive environment, and that the placement is consistent with the short-
30 term and long-term goals for the child, as specified in the permanency
31 plan for the child;

32 (b) The specific treatment or service needs that will be met for the
33 child in the placement and the length of time the child is expected to
34 need the treatment or services; and

35 (c) The efforts made by the department to prepare the child to return
36 home or to be placed with a fit and willing relative, a legal guardian,
37 or an adoptive parent or in a foster family home.

38 (5) Notwithstanding any provision of law to the contrary, the court may
39 order extended foster care for a person between the ages of eighteen (18) and
40 twenty-one (21) years to help such person achieve a successful transition to
41 adulthood, provided such person must have been in the custody of the depart-
42 ment until his eighteenth birthday and must meet the criteria set forth in 42
43 U.S.C. 675(8)(B)(iv). The extension shall be for a fixed period of time and
44 shall not extend past the person's twenty-first birthday.

45 SECTION 2. That Section 16-2002, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 16-2002. DEFINITIONS. When used in this chapter, unless the text oth-
48 erwise requires:

1 (1) "Court" means the district court or magistrate's division thereof
2 or, if the context requires, a judge or magistrate thereof.

3 (2) "Child" or "minor" means any individual who is under the age of
4 eighteen (18) years.

5 (3) "Neglected" means:

6 (a) Conduct as defined in section 16-1602(31), Idaho Code; or

7 (b) The parent(s) has failed to comply with the court's orders or the
8 case plan in a child protective act case and:

9 (i) The department has had temporary or legal custody of the child
10 for ~~fifteen (15)~~ twelve (12) of the most recent twenty-two (22)
11 months; and

12 (ii) Reunification has not been accomplished by the last day of
13 the fifteenth month in which the child has been in the temporary or
14 legal custody of the department.

15 (4) "Abused" means conduct as defined in section 16-1602(1), Idaho
16 Code.

17 (5) "Abandoned" means the parent has willfully failed to maintain a
18 normal parental relationship, including but not limited to reasonable sup-
19 port or regular personal contact. Failure of the parent to maintain this
20 relationship without just cause for a period of one (1) year shall constitute
21 prima facie evidence of abandonment under this section; provided however,
22 where termination is sought by a grandparent seeking to adopt the child, the
23 willful failure of the parent to maintain a normal parental relationship as
24 provided herein without just cause for six (6) months shall constitute prima
25 facie evidence of abandonment.

26 (6) "Legal custody" means status created by court order that vests in a
27 custodian the following rights and responsibilities:

28 (a) To have physical custody and control of the child and to determine
29 where and with whom the child shall live;

30 (b) To supply the child with food, clothing, shelter and incidental ne-
31 cessities;

32 (c) To provide the child with care, education and discipline; and

33 (d) To authorize medical, dental, psychiatric, psychological and other
34 remedial care and treatment for the child, including care and treatment
35 in a facility with a program of services for children.

36 However, such rights and responsibilities shall be exercised subject to the
37 powers, rights, duties and responsibilities of the guardian of the person.

38 (7) "Guardianship of the person" means those rights and duties imposed
39 upon a person appointed as guardian of a minor under the laws of Idaho. It
40 includes but is not necessarily limited either in number or kind to:

41 (a) The authority to consent to marriage, to enlistment in the armed
42 forces of the United States, and to major medical, psychiatric and sur-
43 gical treatment; to represent the minor in legal actions; and to make
44 other decisions concerning the child of substantial legal signifi-
45 cance;

46 (b) The authority and duty of reasonable visitation, except to the ex-
47 tent that such right of visitation has been limited by court order;

48 (c) The rights and responsibilities of legal custody, except where le-
49 gal custody has been vested in another individual or in an authorized
50 child placement agency; and

1 (d) When the parent and child relationship has been terminated by judi-
2 cial decree with respect to the parents, or only living parent, or when
3 there is no living parent, the authority to consent to the adoption of
4 the child and to make any other decision concerning the child which the
5 child's parents could make.

6 (8) "Guardian ad litem" means a person appointed by the court pursuant
7 to section 16-1614 or 5-306, Idaho Code.

8 (9) "Authorized agency" means the department, a local agency, a person,
9 an organization, corporation, benevolent society or association licensed
10 or approved by the department or the court to receive children for control,
11 care, maintenance or placement.

12 (10) "Department" means the department of health and welfare and its au-
13 thorized representatives.

14 (11) "Parent" means:

15 (a) The birth mother or the adoptive mother;

16 (b) The adoptive father;

17 (c) The biological father of a child conceived or born during the fa-
18 ther's marriage to the birth mother; and

19 (d) The unmarried biological father whose consent to an adoption of the
20 child is required pursuant to section 16-1504, Idaho Code.

21 (12) "Presumptive father" means a man who is or was married to the birth
22 mother and the child is born during the marriage or within three hundred
23 (300) days after the marriage is terminated.

24 (13) "Parent and child relationship" includes all rights, privileges,
25 duties and obligations existing between parent and child, including inheri-
26 tance rights, and shall be construed to include adoptive parents.

27 (14) "Parties" includes the child and the petitioners.

28 (15) "Unmarried biological father," as used in this chapter and chapter
29 15, title 16, Idaho Code, means the biological father of a child who was not
30 married to the child's mother at the time the child was conceived or born.

31 (16) "Unmarried biological mother," as used in this chapter, means the
32 biological mother of a child who was not married to the child's biological
33 father at the time the child was conceived or born.

34 (17) "Disability" means, with respect to an individual, any mental or
35 physical impairment that substantially limits one (1) or more major life
36 activities of the individual, including but not limited to self-care, man-
37 ual tasks, walking, seeing, hearing, speaking, learning, or working, or a
38 record of such an impairment, or being regarded as having such an impairment.
39 Disability shall not include transvestism, transsexualism, pedophilia,
40 exhibitionism, voyeurism, other sexual behavior disorders, or substance use
41 disorders, compulsive gambling, kleptomania, or pyromania. Sexual prefer-
42 ence or orientation is not considered an impairment or disability. Whether
43 an impairment substantially limits a major life activity shall be determined
44 without consideration of the effect of corrective or mitigating measures
45 used to reduce the effects of the impairment.

46 (18) "Adaptive equipment" means any piece of equipment or any item that
47 is used to increase, maintain, or improve the parenting abilities of a parent
48 with a disability.

49 (19) "Supportive services" means services that assist a parent with a
50 disability to compensate for those aspects of their disability that affect

1 their ability to care for their child and that will enable them to discharge
 2 their parental responsibilities. The term includes specialized or adapted
 3 training, evaluations, or assistance with effective use of adaptive equip-
 4 ment and accommodations that allow a parent with a disability to benefit from
 5 other services, such as Braille texts or sign language interpreters.

6 SECTION 3. 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.

9 (1) (a) The court may grant an order terminating the relationship where
 10 it finds that termination of parental rights is in the best interests of
 11 the child and that one (1) or more of the following conditions exist:

12 ~~(a)~~ (i) The parent has abandoned the child.

13 ~~(b)~~ (ii) The parent has neglected or abused the child.

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

16 ~~(d)~~ (iv) The parent is unable to discharge parental responsibil-
 17 ities and such inability will continue for a prolonged indetermi-
 18 nate period and will be injurious to the health, morals or well-be-
 19 ing of the child.

20 ~~(e)~~ (v) The parent has been incarcerated and is likely to remain
 21 incarcerated for a substantial period of time during the child's
 22 minority.

23 (b) For terminations arising from a case filed pursuant to chapter 16,
 24 title 16, Idaho Code, additional factors that inform what is in the best
 25 interest of the child, beyond those otherwise identified by the courts,
 26 include:

27 (i) The parent's efforts to improve the parent's capacity to
 28 safely reunify with the child;

29 (ii) The parent's demonstrated ability to live a law-abiding
 30 life, excepting infraction violations; and

31 (iii) When the child has formed a strong and positive bond with the
 32 child's substitute caretaker, the strong and positive bond has ex-
 33 isted for a substantial portion of the child's life, the removal of
 34 the child from the substitute caretaker would likely cause serious
 35 psychological harm to the child, and the parent lacks the capacity
 36 to meet the needs of the child upon removal.

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

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

44 (b) The following circumstances are present:

45 (i) Abandonment, chronic abuse or chronic neglect of the child.
 46 Chronic neglect or chronic abuse of a child shall consist of abuse
 47 or neglect that is so extreme or repetitious as to indicate con-
 48 tinuing the relationship would result in unacceptable risk to the
 49 health and welfare of the child;

1 (ii) Sexual abuse against a child of the parent. Sexual abuse, for
2 the purposes of this section, includes any conduct described in
3 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,
4 or 18-6604, Idaho Code;

5 (iii) Torture of a child; any conduct described in the code sec-
6 tions listed in section 18-8303(1), Idaho Code; battery or an
7 injury to a child that results in serious or great bodily in-
8 jury to a child; voluntary manslaughter of a child, or aiding or
9 abetting such voluntary manslaughter, soliciting such voluntary
10 manslaughter or attempting or conspiring to commit such voluntary
11 manslaughter;

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

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

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

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

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

31 IN THE DISTRICT COURT OF THE.... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
32 AND FOR THE COUNTY OF....

33 In the Matter of the termination)

34 of the parental rights of)

35)

36)

37 I (we), the undersigned, being the.... of...., do hereby give my (our)
38 full and free consent to the complete and absolute termination of my (our)
39 parental right(s), to the said...., who was born...., unto...., hereby
40 relinquishing completely and forever, all legal rights, privileges, du-
41 ties and obligations, including all rights of inheritance to and from the
42 said...., and I (we) do hereby expressly waive my (our) right(s) to hear-
43 ing on the petition to terminate my (our) parental relationship with the
44 said...., and respectfully request the petition be granted.

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

47 STATE OF IDAHO)

48) ss.

49 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 (District Judge or Magistrate)

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

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

14 (b) The court receives an affidavit or a certificate from a court of
15 comparable jurisdiction stating that the consent or the surrender and
16 release was executed in accordance with the laws of the state in which it
17 was executed, or the court is satisfied by other showing that the con-
18 sent or surrender and release was executed in accordance with the laws
19 of the state in which it was executed.

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

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

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

42 SECTION 4. An emergency existing therefor, which emergency is hereby
43 declared to exist, this act shall be in full force and effect on and after
44 July 1, 2025.