

TITLE 16
JUVENILE PROCEEDINGS

CHAPTER 15
ADOPTION OF CHILDREN

16-1501. MINORS AND ADULTS MAY BE ADOPTED. Any minor child may be adopted by any adult person residing in and having residence in Idaho, in the cases and subject to the rules prescribed in this chapter.

(1) Persons not minors may be adopted by a resident adult in cases where the person adopting has sustained the relation of parent to such adopted person:

(a) For a period in excess of one (1) year while the person was a minor; or

(b) For such period of time or in such manner that the court after investigation finds a substantial family relationship has been created.

(2) Adoptions shall not be denied solely on the basis of the disability of a prospective adoptive parent. As used in this chapter:

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

(b) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning or working or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or substance use disorders, compulsive gambling, kleptomania or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the effect of corrective or mitigating measures used to reduce the effects of the impairment.

(c) "Supportive services" means services which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as Braille texts or sign language interpreters.

(3) If applicable, nothing in this chapter shall modify the requirements of the Indian child welfare act of 1978, 25 U.S.C. 1901, et seq.

[(16-1501) 1879, p. 8, sec. 1; R.S., sec. 2545; reen. R.C. & C.L., sec. 2700; C.S., sec. 4682; I.C.A., sec. 31-1101; am. 1951, ch. 283, sec. 1, p. 611; am. 1953, ch. 150, sec. 1, p. 245; am. 1972, ch. 147, sec. 1, p. 318; am. 1991, ch. 39, sec. 1, p. 78; am. 1996, ch. 195, sec. 1, p. 610; am. 2002, ch. 233, sec. 4, p. 671; am. 2013, ch. 138, sec. 3, p. 324; am. 2014, ch. 97, sec. 1, p. 265.]

16-1501A. RIGHTS AND RESPONSIBILITIES OF PARTIES IN ADOPTION PROCEEDINGS. (1) The legislature finds that the rights and interests of all parties

affected by an adoption proceeding must be considered and balanced in determining what constitutional protections and processes are necessary and appropriate.

(2) The legislature finds that:

(a) The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children;

(b) An unmarried mother, faced with the responsibility of making crucial decisions about the future of a newborn child, is entitled to privacy, and has the right to make timely and appropriate decisions regarding her future and the future of the child, and is entitled to assurance regarding the permanence of an adoptive placement;

(c) Adoptive children have a right to permanence and stability in adoptive placements;

(d) Adoptive parents have a constitutionally protected liberty and privacy interest in retaining custody of an adopted child; and

(e) An unmarried biological father has an inchoate interest that acquires constitutional protection only when he demonstrates a timely and full commitment to the responsibilities of parenthood, both during pregnancy and upon the child's birth. The state has a compelling interest in requiring unmarried biological fathers to demonstrate that commitment by providing appropriate medical care and financial support and by establishing legal paternity, in accordance with the requirements of this chapter.

(3) (a) The legislature prescribes the conditions for determining whether an unmarried biological father's action is sufficiently prompt and substantial to require constitutional protection pursuant to sections [16-1504](#) and [16-1513](#), Idaho Code.

(b) If an unmarried biological father fails to grasp the opportunities to establish a relationship with his child that are available to him, his biological parental interest may be lost entirely, or greatly diminished in constitutional significance by his failure to timely exercise it, or by his failure to strictly comply with the available legal steps to substantiate it.

(c) A certain degree of finality is necessary in order to facilitate the state's compelling interest. The legislature finds that the interest of the state, the mother, the child, and the adoptive parents described in this section outweigh the interest of an unmarried biological father who does not timely grasp the opportunity to establish and demonstrate a relationship with his child in accordance with the requirements of this chapter.

(d) An unmarried biological father has the primary responsibility to protect his rights.

(e) An unmarried biological father is presumed to know that the child may be adopted without his consent unless he strictly complies with the provisions of this chapter, manifests a prompt and full commitment to his parental responsibilities, and establishes paternity.

(4) The legislature finds that an unmarried mother has a right of privacy with regard to her pregnancy and adoption plan, and therefore has no legal obligation to disclose the identity of an unmarried biological father prior to or during an adoption proceeding, and has no obligation to volunteer information to the court with respect to the father.

[16-1501A, added 2000, ch. 171, sec. 1, p. 422.]

16-1501B. RIGHT OF PARENT WITH DISABILITY TO PRESENT EVIDENCE AND INFORMATION. If the prospective adoptive parent has a disability as defined in this chapter, the prospective adoptive parent 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 the parent to carry out the responsibilities of parenting the child. Nothing in this chapter shall be construed to create any new or additional obligation on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities.

[16-1501B, added 2002, ch. 233, sec. 5, p. 672.]

16-1502. RESTRICTIONS AS TO COMPARATIVE AGE. The person adopting a child must be at least fifteen (15) years older than the person adopted, or twenty-five (25) years of age or older, except such age restrictions or requirements shall not apply in cases where the adopting parent is a spouse of a natural parent, and except that such age restrictions or requirements shall not apply when the person adopting an adult shows to the satisfaction of the court that a substantial relationship as a parent has been maintained for a period in excess of one (1) year.

[(16-1502) 1879, p. 8, sec. 2; R.S., sec. 2540; reen. R.C. & C.L., sec. 2701; I.C.A., sec. 31-1102; am. 1961, ch. 14, sec. 1, p. 15; am. 1969, ch. 247, sec. 1, p. 773; am. 1972, ch. 147, sec. 2, p. 318; am. 1991, ch. 39, sec. 2, p. 78.]

16-1503. CONSENT OF HUSBAND AND WIFE NECESSARY. A married man, not lawfully separated from his wife, cannot adopt a child without the consent of his wife; nor can a married woman, not thus separated from her husband, without his consent, provided the husband or wife, not consenting, is capable of giving such consent.

[(16-1503) 1879, p. 8, sec. 3; R.S., sec. 2547; reen. R.C. & C.L., sec. 2702; C.S., sec. 4684; I.C.A., sec. 31-1103.]

16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption of a child is required from:

- (a) The adoptee, if he is more than twelve (12) years of age, unless he does not have the mental capacity to consent;
- (b) Both parents or the surviving parent of an adoptee who was conceived or born within a marriage;
- (c) The mother of an adoptee born outside of marriage;
- (d) Any biological parent who has been adjudicated to be the child's biological father by a court of competent jurisdiction prior to the mother's execution of consent;
- (e) An unmarried biological father of an adoptee only if the requirements and conditions of subsection (3) (a) or (b) of this section have been proven;
- (f) Any legally appointed custodian or guardian of the adoptee;
- (g) The adoptee's spouse, if any;

- (h) An unmarried biological father who has filed a voluntary acknowledgment of paternity with the vital statistics unit of the department of health and welfare pursuant to section 7-1106, Idaho Code; and
 - (i) The father of an illegitimate child who has adopted the child by acknowledgment.
- (2) Consent to adoption of an adult is required from:
- (a) The adoptee, or the guardian or conservator of an incapacitated adoptee, if a guardian or conservator has been appointed; and
 - (b) The adoptee's spouse, if any.
- (3) In accordance with subsection (1) of this section, the consent of an unmarried biological father is necessary only if the father has strictly complied with all requirements of this section.
- (a) (i) With regard to a child who is placed with adoptive parents more than six (6) months after birth, an unmarried biological father shall have developed a substantial relationship with the child, taken some measure of responsibility for the child and the child's future, and demonstrated a full commitment to the responsibilities of parenthood by financial support of the child, of a fair and reasonable sum and in accordance with the father's ability, when not prevented from doing so by the person or authorized agency having lawful custody of the child, and either:
 - 1. Visiting the child at least monthly when physically and financially able to do so, and when not prevented from doing so by the person or authorized agency having lawful custody of the child; or
 - 2. Having regular communication with the child or with the person or agency having the care or custody of the child, when physically and financially unable to visit the child, and when not prevented from doing so by the person or authorized agency having lawful custody of the child.
 - (ii) The subjective intent of an unmarried biological father, whether expressed or otherwise, unsupported by evidence of acts specified in this subsection shall not preclude a determination that the father failed to meet any one (1) or more of the requirements of this subsection.
 - (iii) An unmarried biological father who openly lived with the child for a period of six (6) months within the one (1) year period after the birth of the child and immediately preceding placement of the child with adoptive parents, and who openly held himself out to be the father of the child during that period, shall be deemed to have developed a substantial relationship with the child and to have otherwise met all of the requirements of this subsection.
- (b) With regard to a child who is under six (6) months of age at the time he is placed with adoptive parents, an unmarried biological father shall have manifested a full commitment to his parental responsibilities by performing all of the acts described in this subsection and prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section 16-2005(4), Idaho Code, whichever occurs first. The father shall have strictly complied with all of the requirements of this subsection by:

(i) Filing proceedings to establish paternity under section [7-1111](#), Idaho Code, and filing with that court a sworn affidavit stating that he is fully able and willing to have full custody of the child, setting forth his plans for the care of the child, and agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;

(ii) Filing a notice of the proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare pursuant to section [16-1513](#), Idaho Code; and

(iii) If he had actual knowledge of the pregnancy, paying a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his means, and when not prevented from doing so by the person or authorized agency having lawful custody of the child.

(4) An unmarried biological father whose consent is required under subsection (1) or (3) of this section may nevertheless lose his right to consent if the court determines, in accordance with the requirements and procedures of the termination of parent and child relationship act, sections [16-2001](#) through [16-2015](#), Idaho Code, that his rights should be terminated, based on the petition of any party as set forth in section [16-2004](#), Idaho Code.

(5) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that an unmarried biological father has consented to or waived his rights regarding a proposed adoption, the petitioner shall file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of notices from putative fathers, of a child born out of wedlock, and that the putative father involved has not filed notice of the proceedings to establish his paternity or, if a filing is found, stating the name of the putative father and the time and date of filing. That certificate shall be filed with the court prior to the entrance of the final decree of adoption.

(6) An unmarried biological father who does not fully and strictly comply with each of the conditions provided in this section is deemed to have waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the adoption of the child, or for termination of parental rights and his consent to the adoption of the child is not required unless he proves, by clear and convincing evidence, all of the following:

(a) It was not possible for him, prior to the filing of a proceeding to terminate parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section [16-2005](#) (4), Idaho Code, whichever occurs first, to:

(i) Commence proceedings to establish paternity of his child in accordance with section [7-1111](#), Idaho Code; and

(ii) File notice of the filing of proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare in accordance with section [16-1513](#), Idaho Code;

(b) His failure to timely file notice of the filing of proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare in accordance with section

[16-1513](#), Idaho Code, and his failure to commence timely proceedings to establish paternity of his child in accordance with section [7-1111](#), Idaho Code, were through no fault of his own; and

(c) He filed notice of the filing of proceedings to establish paternity of his child in accordance with section [7-1111](#), Idaho Code, with the vital statistics unit of the department of health and welfare in accordance with section [16-1513](#), Idaho Code, and filed proceedings to establish his paternity of the child within ten (10) days after the birth of the child. Lack of knowledge of the pregnancy is not an acceptable reason for his failure to timely file notice of the commencement of proceedings or for his failure to commence timely proceedings.

(7) A minor parent has the power to consent to the adoption of his or her child. That consent is valid and has the same force and effect as a consent executed by an adult parent. A minor parent, having executed a consent, cannot revoke that consent upon reaching the age of majority or otherwise becoming emancipated.

(8) No consent shall be required of, nor notice given to, any person whose parental relationship to such child shall have been terminated in accordance with the provisions of either chapter 16 or 20, [title 16](#), Idaho Code, or by a court of competent jurisdiction of a sister state under like proceedings, or in any other manner authorized by the laws of a sister state. Where a voluntary child placement agency licensed by the state in which it does business is authorized to place a child for adoption and to consent to such child's adoption under the laws of such state, the consent of such agency to the adoption of such child in a proceeding within the state of Idaho shall be valid and no further consents or notices shall be required.

(9) The legislature finds that an unmarried biological father who resides in another state may not, in every circumstance, be reasonably presumed to know of and strictly comply with the requirements of this chapter. Therefore, when all of the following requirements have been met, that unmarried biological father may contest an adoption prior to finalization of the decree of adoption and assert his interest in the child:

(a) The unmarried biological father resides and has resided in another state where the unmarried mother was also located or resided;

(b) The mother left that state without notifying or informing the unmarried biological father that she could be located in the state of Idaho;

(c) The unmarried biological father has, through every reasonable means, attempted to locate the mother but does not know or have reason to know that the mother is residing in the state of Idaho; and

(d) The unmarried biological father has complied with the most stringent and complete requirements of the state where the mother previously resided or was located in order to protect and preserve his parental interest and rights in the child in cases of adoption.

(10) An unmarried biological father may, under the provisions of section [7-1107](#), Idaho Code, file a proceeding to establish his paternity prior to the birth of the child; however, such paternity proceeding must be filed prior to the date of the filing of any proceeding to terminate parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section [16-2005](#)(4), Idaho Code, whichever occurs first.

[(16-1504) 1879, p. 8, sec. 4; Act Feb. 5, 1887; R.S., sec. 2548; reen. R.C. & C.L., sec. 2703; C.S., sec. 4685; I.C.A., sec. 31-1104; am. 1957, ch. 189, sec. 1, p. 376; am. 1961, ch. 225, sec. 1, p. 361; am. 1969, ch. 188, sec. 1, p. 554; am. 1970, ch. 101, sec. 1, p. 253; am. 1990, ch. 27, sec. 1, p. 42; am. 1994, ch. 393, sec. 1, p. 1243; am. 1996, ch. 195, sec. 2, p. 610; am. 2000, ch. 171, sec. 2, p. 423; am. 2002, ch. 233, sec. 6, p. 672; am. 2013, ch. 138, sec. 4, p. 324; am. 2014, ch. 140, sec. 1, p. 379; am. 2020, ch. 330, sec. 1, p. 952.]

16-1505. NOTICE OF ADOPTION PROCEEDINGS. (1) Notice of an adoption proceeding shall be served on each of the following persons:

- (a) Any person or agency whose consent or relinquishment is required under section [16-1504](#), Idaho Code, unless that right has been terminated by waiver, relinquishment, consent or judicial action, or the person's parental rights have been previously terminated;
- (b) Any person who has registered notice of the commencement of paternity proceedings pursuant to section [16-1513](#), Idaho Code;
- (c) The petitioner's spouse, if any, only if he or she has not joined in the petition;
- (d) Any person who is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother, unless such right to notice or parental rights have been previously terminated;
- (e) Any person who is openly living in the same household with the child at the time the mother's consent is executed or relinquishment made, and who is holding himself out to be the child's father, unless such rights to notice or parental rights have been previously terminated; and
- (f) Any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption.

(2) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman, is deemed to be on notice that a pregnancy and an adoption proceeding regarding that child may occur, and that he has a duty to protect his own rights and interests. He is therefore entitled to actual notice of a birth or an adoption proceeding with regard to that child only as provided in this section.

(3) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.

(4) The notice required by this section may be served immediately after commencement of proceedings to adopt a child but shall be served at least twenty-one (21) days prior to the final dispositional hearing. The notice shall specifically state that the person served must respond to the petition for adoption within twenty-one (21) days of service if he intends to intervene in or contest the adoption.

(5) (a) Any person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a written objection to the adoption in the adoption proceeding within twenty-one (21) days after service. The written objection shall set forth specific relief sought and be accompanied by a memorandum specifying the factual and legal grounds upon which the written objection is based.

(b) Any person who fails to file a written objection to the adoption within twenty-one (21) days after service of notice waives any right to further notice in connection with the adoption, forfeits all rights in

relation to the adoptee, and is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(6) Service of notice under this section shall be made as follows:

(a) With regard to a person whose consent is necessary under section [16-1504](#), Idaho Code, notice shall be given by personal service. Where reasonable efforts to effect personal service have been unsuccessful, the court shall order service by registered or certified mail to the last known address of the person to be notified and by publication once a week for three (3) successive weeks in a newspaper or newspapers to be designated by the court as most likely to give notice to the person to be served. The hearing shall take place no sooner than twenty-one (21) days after service of notice or, where service is by registered or certified mail and publication, the hearing shall take place no sooner than twenty-one (21) days after the date of last publication. Notice and appearance may be waived by any person in writing before the court or in the presence of, and witnessed by, a clerk of court or a representative of an authorized agency, provided that such parent has been apprised by the court or by such person of the meaning and consequences of the adoption proceeding. Where the person entitled to notice resides outside the state, the waiver shall be acknowledged before a notary of the state and shall contain the current address of said person. The person who has executed such a waiver shall not be required to appear. If service is by publication, the court shall designate the content of the notice regarding the identity of the parties. The notice may not include the name of the person or persons seeking to adopt the adoptee.

(b) As to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient. If that service cannot be completed after two (2) attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.

(c) Notice to a person who has registered a notice of his commencement of paternity proceedings with the vital statistics unit of the department of health and welfare in accordance with the requirements of section [16-1513](#), Idaho Code, shall be served by certified mail, return receipt requested, at the last address filed with the department.

(7) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.

(8) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the adoptee.

(9) Except as to those persons whose consent to an adoption is required under section [16-1504](#), Idaho Code, the sole purpose of notice under this section is to enable the person served to present evidence to the court relevant to the best interest of the child.

[(16-1505) 1879, p. 8, sec. 5; R.S., sec. 2549; reen. R.C. & C.L., sec. 2704; C.S., sec. 4686; I.C.A., sec. 31-1105; am. 2000, ch. 171, sec. 4, p. 427; am. 2020, ch. 124, sec. 1, p. 383.]

16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child shall be commenced by the filing of a petition together with a copy thereof. The petition shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the county in which

said person or persons reside. If the adoption arises from a child protective act case, the petition shall be filed in the court having jurisdiction over the child protective act case unless that court relinquishes jurisdiction over the adoption proceeding. The petitioners shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the name and address of the petitioner or petitioners, the name of the child proposed to be adopted and the name by which the person to be adopted shall be known if and when adopted, the degree of relationship of the child, if any, to the petitioner or petitioners and the names of any person or agency whose consent to said adoption is necessary. At the time fixed for hearing such petition, the person adopting a child and the child adopted, and the spouse of the petitioner if a natural parent of the child, must appear before the court of the county wherein the petition was filed. The petitioner shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated.

(2) If the adoption arises from a child protective act case, then, in addition to the petition filed pursuant to subsection (1) of this section, the department of health and welfare shall file the permanency plan prepared pursuant to section [16-1620](#) or [16-1622](#), Idaho Code, associated with the child protective act case. If the court determines that the person proposing to adopt the child is not the proposed adoptive parent named in the permanency plan, then the judge shall stay the proceeding pending the department preparing and filing an amended permanency plan pursuant to section [16-1620](#) or [16-1622](#), Idaho Code, and the approval of the amended permanency plan by the judge presiding over the child protective act proceeding.

(3) Any person or persons whose consent is required shall execute such consent in writing, in a form consistent with the provisions of section [16-2005](#)(4), Idaho Code, which consent being filed in the court where the application is made, shall be deemed a sufficient appearance on the part of such person or persons. If any adoptive parent, or a person not a minor being adopted by a resident adult under the provisions of section [16-1501](#), Idaho Code, is a member of the armed services and is unable to attend the hearing, his appearance and testimony shall be received by means of deposition, which shall be filed in the court at the time of the hearing.

(4) Prior to the placement for adoption of any child in the home of prospective adoptive parents, it shall be required that a thorough social investigation of the prospective adoptive family and all of its members, consistent with the rules regarding such investigations promulgated by the department of health and welfare, shall be completed and that a positive recommendation for adoptive placement shall have been made. The social investigation may be performed by any individual who meets the requirements of the law. A copy of the study must be submitted to the department and the department may impose a reasonable fee, not to exceed fifty dollars (\$50.00), for oversight of such privately conducted studies. If the prospective adoptive parent has a disability as defined in this chapter, the prospective adoptive parent shall have the right, as a part of the social study, to provide information regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child. The person performing the social investigation shall advise the prospective adoptive parent of such right and shall consider all such information in any findings or recommendations. The social investigation of any prospective adoptive parent with a disability shall

be conducted by, or with the assistance of, an individual with expertise in the use of such equipment and services. Nothing in this chapter shall be construed to create any new or additional obligation on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities. In those instances where the prospective adoptive parent is married to the birth parent or is the grandparent of the child to be adopted, such social investigation shall be completed with regard to the prospective adoptive parent only upon order of the court. In exigent circumstances where the prospective adoptive parents are determined by the court to have been unable to complete a social investigation of the family with a positive recommendation prior to the time the child is placed in the home, the child shall remain in the home unless the court determines the best interests of the child are served by other placement. If exigent circumstances exist, a social investigation shall be initiated within five (5) days of placement. Once initiated, all studies shall be completed within sixty (60) days. Upon the filing of a petition to adopt a minor child by a person unrelated to the child or unmarried to a natural parent of the child and at the discretion of the court upon the filing of any other petition for adoption, a copy of such petition, together with a statement containing the full names and permanent addresses of the child and the petitioners, shall be served by the court receiving the petition within five (5) days on the director of the department of health and welfare by registered mail or personal service. If no private investigation is conducted, it shall then be the duty of the said director, through the personnel of the department or through such qualified child-placing children's adoption agency incorporated under [chapter 30, title 30](#), Idaho Code, as the director may designate, to verify the allegations of the petition, and as soon as possible not exceeding thirty (30) days after service of the petition on the director to make a thorough investigation of the matter to include in all cases information as to the alleged date and place of birth and as to parentage of the child to be adopted as well as the source of all such information and report his findings in writing to the court. The investigative report shall include reasonably known or available medical and genetic information regarding both natural parents and sources of such information as well as reasonably known or available providers of medical care and services to the natural parents. A copy of all medical and genetic information compiled in the investigation shall be made available to the adopting family by the department or other investigating children's adoption agency prior to entry of the final order of adoption. The petition, statement and all other papers, records or files relating to the adoption, including the preplacement investigation and recommendation, shall be returned to the court with the investigative report. The department of health and welfare or other children's adoption agency may require the petitioner to pay all or any part of the costs of the investigation. If the report disapproves of the adoption of the child, motion may be made to the court to dismiss the petition.

(5) Proceedings for termination of parent-child relationship in accordance with [chapter 20, title 16](#), Idaho Code, and proceedings for adoption may be consolidated and determined at one (1) hearing provided that all of the requirements of this chapter as well as [chapter 20, title 16](#), Idaho Code, be fully complied with. Nothing in either chapter shall be construed as limiting the initiation of any petition for approval of a verified financial plan for adoption expenses pursuant to section [18-1511](#), Idaho Code, prior to the birth of the child which is the subject of any adoption proceeding. In all

disputed matters under this chapter or [chapter 20, title 16](#), Idaho Code, the paramount criterion for consideration and determination by the court shall be the best interests of the child.

(6) Proceedings for the adoption of an adult shall be as provided in subsection (1) of this section and any consents required shall be executed as provided in subsection (3) of this section. Upon a finding by the court that the consent of all persons for whom consent is required has been given and that the requirements of section [16-1501](#), Idaho Code, have been proven to the satisfaction of the court, the court shall enter an order granting the adoption. In cases where the adult proposed to be adopted is incapacitated or disabled, the court may require that an investigation be performed. The form and extent of the investigation to be undertaken may be as provided in subsection (4) of this section, or as otherwise ordered by the court. If an investigation is performed, the court must review and approve the findings of the investigation before issuing an order approving the adoption.

[(16-1506) 1879, p. 8, sec. 6; am. 1885, p. 25, sec. 1; R.S., sec. 2550; reen. R.C. & C.L., sec. 2705; C.S., sec. 4687; I.C.A., sec. 31-1106; am. 1951, ch. 283, sec. 2, p. 611; am. 1969, ch. 188, sec. 2, p. 554; am. 1970, ch. 14, sec. 1, p. 26; am. 1972, ch. 196, sec. 1, p. 483; am. 1974, ch. 23, sec. 2, p. 633; am. 1980, ch. 197, sec. 24, p. 451; am. 1980, ch. 368, sec. 1, p. 950; am. 1988, ch. 26, sec. 1, p. 33; am. 1988, ch. 139, sec. 1, p. 251; am. 1992, ch. 341, sec. 1, p. 1031; am. 1994, ch. 393, sec. 2, p. 1244; am. 1994, ch. 426, sec. 1, p. 1334; am. 1995, ch. 161, sec. 1, p. 639; am. 1996, ch. 195, sec. 3, p. 611; am. 2000, ch. 171, sec. 5, p. 429; am. 2002, ch. 233, sec. 7, p. 675; am. 2005, ch. 391, sec. 3, p. 1264; am. 2016, ch. 347, sec. 1, p. 999; am. 2017, ch. 58, sec. 2, p. 93.]

16-1507. ORDER OF ADOPTION. The judge must examine all persons appearing before him pursuant to this chapter, each separately, and any report of the investigation provided pursuant to the last section and if satisfied that the interests of the child will be promoted by the adoption, he must in the adoption of all foreign born persons make a finding of facts as to the true or probable date and place of birth of the foreign born child to be adopted and make an order declaring that the child shall thenceforth be regarded and treated in all respects as the child of the person adopting.

[(16-1507) 1879, p. 8, sec. 7; R.S., sec. 2551; reen. R.C. & C.L., sec. 2706; C.S., sec. 4688; I.C.A., sec. 31-1107; am. 1951, ch. 283, sec. 3, p. 611; am. 1988, ch. 26, sec. 2, p. 34; am. 1996, ch. 188, sec. 1, p. 596.]

16-1508. EFFECT OF ADOPTION. A child or adult, when adopted, may take the name of the person adopting, and the two (2) shall thenceforth sustain toward each other the legal relation of parent and child, and shall have all the rights and shall be subject to all the duties of that relation, including all of the rights of a child of the whole blood to inherit from any person, in all respects, under the provisions of section [15-2-103](#), Idaho Code, and to the same extent as a child of the whole blood.

[(16-1508) 1879, p. 8, sec. 8; R.S., sec. 2552; reen. R.C. & C.L., sec. 2707; C.S., sec. 4689; I.C.A., sec. 31-1108; am. 1963, ch. 63, sec. 1, p. 246; am. 1996, ch. 195, sec. 4, p. 613; am. 2020, ch. 82, sec. 7, p. 178.]

16-1509. RELEASE OF CHILD'S PARENTS FROM OBLIGATION -- TERMINATION OF RIGHTS OF PARENTS AND CHILDREN. Unless the decree of adoption otherwise provides, the natural parents of an adopted child are, from the time of the adoption, relieved of all parental duties toward, and all responsibilities for, the child so adopted, and have no right over it, and all rights of such child from and through such natural parents including the right of inheritance, are hereby terminated unless specifically provided by will.

[(16-1509) 1879, p. 8, sec. 9; R.S., sec. 2553; reen. R.C. & C.L., sec. 2708; C.S., sec. 4690; I.C.A., sec. 31-1109; am. 1969, ch. 334, sec. 1, p. 1058.]

16-1509A. DISSOLUTION OF ADOPTION. An adoption may be dissolved, upon petition, with the agreement of both the adoptee and the adopting parent, when the adopting parent was the spouse of a natural parent, and the marriage of the natural parent and adoptive parent was terminated. If the petition for dissolution occurs after the death of the adoptive parent, the court shall, in the finding of dissolution, specify the effect upon rights of inheritance. The court must determine that avoidance of statutory care is not the purpose of the dissolution, unless the court finds grounds to waive this finding. An action to obtain a decree of dissolution of adoption may be commenced at any time after the adoptee reaches twenty-one (21) years of age.

[16-1509A, added 1998, ch. 167, sec. 1, p. 563.]

16-1511. SEALING RECORD OF PROCEEDINGS. Upon the motion of petitioners, or upon its own motion the court shall order that the record of its proceedings in any adoption proceeding shall be sealed. When such order has been made and entered the court shall seal such record and thereafter the seal shall not be broken except upon the motion of petitioners or the person adopted; provided, however, that such record may be sealed again as in this section provided.

[I.C., sec. 16-1511, as added by 1953, ch. 104, sec. 1, p. 138; am. 1996, ch. 195, sec. 5, p. 613.]

16-1512. APPEAL FROM ORDER -- BINDING EFFECT OF ADOPTION ORDER. (1) Any appeal from an order granting or refusing to grant an order of adoption shall be taken to the supreme court.

(2) After the order of adoption by the court becomes final, no party to an adoption proceeding, nor anyone claiming under such party, may later question the validity of the adoption proceedings by reason of any defect or irregularity therein, jurisdiction or otherwise, but shall be fully bound by the order, except for such appeal as may be allowed in subsection (1) of this section. In no event, for any reason, other than fraud on the part of the party adopting a child, shall an adoption be overturned by any court or collaterally attacked by any person or entity after six (6) months from the date the order of adoption becomes final. This provision is intended as a statute of repose.

[I.C.A., sec. 16-1512, as added by 1957, ch. 189, sec. 2, p. 376; am. 1971, ch. 170, sec. 1, p. 805; am. 2000, ch. 173, sec. 1, p. 442; am. 2010, ch. 26, sec. 1, p. 46.]

16-1513. REGISTRATION OF NOTICE AND FILING OF PATERNITY PROCEEDINGS. (1) A person who is the father or claims to be the father of a child born out of wedlock may claim rights pertaining to his paternity of the child by commencing proceedings to establish paternity under section [7-1111](#), Idaho Code, and by filing with the vital statistics unit of the department of health and welfare notice of his filing of proceedings to establish his paternity of the child born out of wedlock. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of filing the notice of filing of paternity proceedings, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. The forms shall include a written notification that filing pursuant to this section shall not satisfy the requirements of [chapter 82, title 39](#), Idaho Code, and the notification shall also include the following statements:

(a) A parent may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of [chapter 82, title 39](#), Idaho Code, as provided by section [39-8206](#), Idaho Code, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare on a form as prescribed and provided by the vital statistics unit of the department of health and welfare;

(b) The vital statistics unit of the department of health and welfare shall maintain a separate registry for claims to abandoned children, abandoned pursuant to the provisions of [chapter 82, title 39](#), Idaho Code;

(c) The department shall provide forms for the purpose of filing a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of [chapter 82, title 39](#), Idaho Code, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state;

(d) To be valid, a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of [chapter 82, title 39](#), Idaho Code, must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child;

(e) Registration of notice of filing of paternity proceedings pursuant to [chapter 15, title 16](#), Idaho Code, shall not satisfy the requirements of [chapter 82, title 39](#), Idaho Code. To register a parental claim to an abandoned child, abandoned pursuant to the provisions of [chapter 82, title 39](#), Idaho Code, an individual must file an abandoned child registry claim with the vital statistics unit of the department of health and welfare and comply with all other provisions of [chapter 82, title 39](#), Idaho Code, in the time and manner prescribed, in order to preserve parental rights to the child.

When filing a notice of the filing of paternity proceedings, a person who claims to be the father of a child born out of wedlock shall file with the vital statistics unit of the department of health and welfare the completed form prescribed by the vital statistics unit of the department of health

and welfare. Said form will be filled out completely, signed by the person claiming paternity, and witnessed before a notary public.

(2) The notice of the filing of paternity proceedings may be filed prior to the birth of the child, but must be filed prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother. The notice of the filing of paternity proceedings shall be signed by the person filing the notice and shall include his name and address, the name and last address of the mother, and either the birth date of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a central registry for this purpose that shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code. The department shall record the date and time the notice of the filing of proceedings is filed with the department. The notice shall be deemed to be duly filed with the department as of the date and time recorded on the notice by the department.

(3) If the unmarried biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in venue.

(4) Except as provided in section [16-1504](#)(6), Idaho Code, any father of a child born out of wedlock who fails to file and register his notice of the commencement of paternity proceedings pursuant to section [7-1111](#), Idaho Code, prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section [16-2005](#)(4), Idaho Code, whichever occurs first, is deemed to have waived and surrendered any right in relation to the child and of any notice to proceedings for adoption of the child or for termination of parental rights of the birth mother. His consent to the adoption of the child shall not be required and he shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Failure of such filing or registration shall constitute an abandonment of said child and shall constitute an irrevocable implied consent in any adoption or termination proceeding.

(5) The filing and registration of an unrevoked notice of the commencement of paternity proceedings by a putative father shall constitute prima facie evidence of the fact of his paternity in any contested proceeding under [chapter 11, title 7](#), Idaho Code. The filing of a notice of the commencement of paternity proceedings shall not be a bar to an action for termination of his parental rights under [chapter 20, title 16](#), Idaho Code.

(6) An unmarried biological father of a child born out of wedlock who has filed and registered a notice of the filing of paternity proceedings may at any time revoke notice of intent to claim paternity previously filed. Upon receipt of written revocation, the effect shall be as if no notice of the filing of paternity proceedings had been filed or registered.

(7) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that the putative father has consented to the adoption, a certificate shall be obtained from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of notices from putative fathers, and that no filing has been found pertaining to the father of the child in question, or if a filing is found, stating the name of the putative father and the time and date of

filing. That certificate shall be filed with the court prior to entry of a final decree of adoption.

(8) Identities of putative fathers can only be released pursuant to procedures contained in [chapter 1, title 74](#), Idaho Code.

(9) To cover the cost of implementing and maintaining said central registry, the vital statistics unit of the department of health and welfare shall charge a filing fee of ten dollars (\$10.00) at the time the putative father files his notice of his commencement of proceedings. The department shall also charge a reasonable fee to cover all costs incurred in a search of the Idaho putative father registry and for furnishing a certificate in accordance with the provisions of this section and section [16-1504](#), Idaho Code. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section and section [16-1504](#), Idaho Code. The department shall annually review the fees and expenses incurred pursuant to administering the provisions of this section and section [16-1504](#), Idaho Code.

(10) Consistent with its authority denoted in the vital statistics act, section [39-242\(c\)](#), Idaho Code, the board of health and welfare shall adopt, amend and repeal rules for the purpose of carrying out the provisions of this section.

(11) The department shall produce and distribute, within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, a pamphlet or publication informing the public about the Idaho putative father registry, printed in English and Spanish. The pamphlet shall indicate the procedures to be followed in order to receive notice of any proceeding for the adoption of a child that an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry. Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, such pamphlets or publications shall be made available for distribution to the public at all offices of the department of health and welfare. Upon request, the department shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools, colleges, universities, providers of child-related services and children's agencies licensed in the state of Idaho or advertising services in the state of Idaho.

(12) Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, each county clerk, branch office of the department of motor vehicles, all offices of the department of health and welfare, hospitals and local health districts shall post in a conspicuous place a notice that informs the public about the purpose and operation of the Idaho putative father registry. The notice must include information regarding the following:

- (a) Where to obtain a registration form;
- (b) Where to register;
- (c) The procedures to follow in order to file proceedings to establish paternity of a child born out of wedlock;
- (d) The consequences of a voluntary acknowledgment of paternity; and
- (e) The consequences of failure to acknowledge paternity.

(13) The department shall host on the department's web page a public service announcement (PSA) informing the public about the Idaho putative

father registry, printed in English and Spanish. The PSA shall indicate the procedures to be followed in order to receive notice of any proceeding for the adoption of a child that an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry.

(14) Failure to post a proper notice under the provisions of this section does not relieve a putative father of the obligation to file notice of the filing of proceedings to establish his paternity pursuant to this section or to commence proceedings to establish paternity pursuant to section [7-1111](#), Idaho Code, prior to the filing of any proceeding to terminate parental rights of the birth mother.

(15) A person who knowingly or intentionally falsely files or registers as a putative father is guilty of a misdemeanor.

[16-1513, added 1985, ch. 54, sec. 1, p. 107; am. 1990, ch. 213, sec. 9, p. 494; am. 1992, ch. 341, sec. 2, p. 1033; am. 1994, ch. 393, sec. 3, p. 1245; am. 2000, ch. 171, sec. 7, p. 431; am. 2001, ch. 357, sec. 2, p. 1256; am. 2005, ch. 25, sec. 75, p. 110; am. 2005, ch. 391, sec. 4, p. 1267; am. 2013, ch. 138, sec. 5, p. 327; am. 2014, ch. 140, sec. 2, p. 382; am. 2015, ch. 141, sec. 12, p. 384; am. 2020, ch. 330, sec. 4, p. 958.]

16-1514. PETITION FOR ADOPTION OF FOREIGN BORN CHILD. (1) Proceedings to adopt a foreign born child who has been allowed to enter the United States for the purpose of adoption shall be commenced by the filing of a petition under this section. A petition under this section shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the judicial district in which said person or persons reside. The petitioner shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the following:

- (a) The name and address of the petitioner or petitioners;
- (b) The name of the child proposed to be adopted and the name by which he or she shall be known when adopted;
- (c) The degree of relationship of the child, if any, to the petitioner or petitioners;
- (d) The child's country of origin, and date of birth, if known;
- (e) That the child has been issued a visa or other document authorizing entry into the United States as an immigrant or for the purpose of adoption or for humanitarian reasons relating to adoption in the United States and the date of the person's entry into the United States;
- (f) That a home study of the petitioner or petitioners was prepared and the name of the person or agency performing the home study. A copy of the home study shall be attached to the petition;
- (g) That, to the information and belief of the petitioners, the biological parents of the child to be adopted are residents of another country;
- (h) That the adoption of such child is in the child's best interests.

(2) At the time fixed for the hearing on a petition for adoption under this section, the person or persons adopting the child and the child to be adopted must appear before the court where the petition was filed. The judge shall examine the petitioner or petitioners at the hearing and, if satisfied that the proposed adoption is in the best interests of the child to be

adopted, shall enter a decree of adoption. The petitioner or petitioners shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as the petitioner's own lawful child.

(3) This section governs the adoption of all foreign born children who have entered the United States to be adopted. Notwithstanding any other provision of this chapter, no consent shall be required from the biological parents of the child to be adopted if the child has been granted permission by the United States department of state or United States department of homeland security to enter the United States for the purpose of adoption or for humanitarian reasons relating to adoption by United States citizens. A visa or other document from the United States department of state or United States department of homeland security authorizing entry into the United States for the purpose of adoption, or for humanitarian reasons relating to adoption by United States citizens, shall be deemed conclusive evidence of the termination of the parental rights of the biological parents and compliance with the laws of the country of the child's birth. The provisions of [chapter 20, title 16](#), Idaho Code, shall not apply to adoptions under this section.

(4) The decisions and orders of foreign courts and government agencies, authorized to approve adoptions, shall be accorded judicial comity or the same full faith and credit accorded a judgment of a sister state without additional proceedings or documentation, provided the United States department of state or United States department of homeland security has allowed the child to enter the United States as set forth in subsection (3) of this section.

[16-1514, added 1996, ch. 188, sec. 2, p. 596; am. 1998, ch. 313, sec. 1, p. 1035; am. 2006, ch. 77, sec. 1, p. 234.]

16-1514A. INTERNATIONAL ADOPTION. (1) When an Idaho resident adopts a child in a foreign country in accordance with the laws of the foreign country, and such adoption is recognized as full and final by the United States government, such resident may file with a petition a copy of the decree, order or certificate of adoption which evidences finalization of the adoption in the foreign country, together with a certified translation thereof if it is not in English, and proof of full and final adoption from the United States government with the clerk of the court of any county in this state having jurisdiction over the person or persons filing such documents.

(2) The court shall assign a docket number and file and enter the documents referenced in subsection (1) of this section with an order recognizing the foreign adoption without the necessity of a hearing. Such order, along with the final decree, order or certificate from the foreign country shall have the same force and effect as if a final order of adoption were granted in accordance with the provisions of this chapter.

(3) When such order is filed and entered, the adoptive parents may request a report of adoption as provided in section [39-259](#), Idaho Code.

[16-1514A, added 2006, ch. 77, sec. 2, p. 236.]

16-1515. REVOCATION OF ADOPTION -- PAYMENT OF EXPENSES OF ADOPTIVE PARENTS. (1) If a natural parent withdraws or revokes a consent to adoption and the court orders that the custody of the child be returned to the natural parent upon the petition of a natural parent, whether or not the order of adoption has been entered, the court shall order the natural parent who so petitioned to reimburse the adoptive or prospective adoptive parents for all

adoption expenses including, but not limited to, all medical fees and costs and all legal fees and costs, and all other reasonable costs and expenses including, but not limited to, expenses for food and clothing incurred by the adoptive or prospective adoptive parents in connection with the care and maintenance of the child while the child was living with the adoptive or prospective adoptive parents. The court shall determine the amount of the reimbursement owing and shall enter the same as a money judgment in favor of the adoptive or prospective adoptive parents.

(2) If the natural parent agrees to consent to the adoption and the adoption proceedings have been initiated by the prospective adoptive parents in accordance with that agreement but the natural parent thereafter refuses to execute the consent to adoption, the prospective adoptive parents may file a motion for restitution in the adoption action and the court may order reimbursement as provided in subsection (1) of this section, or the prospective adoptive parents may file a suit independent of the adoption proceedings for damages which may include those items described in subsection (1) of this section.

(3) For purposes of this section, "prospective adoptive parents" shall include foster parents who have initiated adoption proceedings with respect to the child for whom foster care is being provided, but shall not include foster parents who are wholly or partially reimbursed by the state of Idaho for the care of the child.

[16-1515, added 1998, ch. 172, sec. 1, p. 594.]