

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 499

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO PATERNITY; AMENDING SECTION 7-1107, IDAHO CODE, TO PROVIDE THAT PATERNITY PROCEEDINGS MAY BE INSTITUTED AT ANY TIME; AMENDING SECTION 16-1501A, IDAHO CODE, TO PROVIDE FINDINGS, TO REVISE FINDINGS, TO REVISE PROVISIONS RELATING TO CONSTITUTIONAL PROTECTIONS AS THEY RELATE TO UNMARRIED BIOLOGICAL FATHERS, TO PROVIDE THAT UNMARRIED BIOLOGICAL FATHERS HAVE CERTAIN RESPONSIBILITIES, TO REVISE PROVISIONS RELATING TO THE RIGHT OF PRIVACY OF UNMARRIED MOTHERS, TO PROVIDE THAT CERTAIN DISCLOSURES SHALL BE REQUIRED OF UNMARRIED MOTHERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1504, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THOSE THAT ARE REQUIRED TO PROVIDE CONSENT TO ADOPTION, TO REVISE PROVISIONS RELATING TO THE MANIFESTATIONS OF FULL COMMITMENT TO PARENTAL RESPONSIBILITIES BY UNMARRIED BIOLOGICAL FATHERS OF CHILDREN UNDER THE AGE OF SIX MONTHS AT THE TIME OF PLACEMENT WITH ADOPTIVE PARENTS, TO PROVIDE FOR CERTAIN AFFIDAVITS BY UNMARRIED MOTHERS, TO PROHIBIT CHILDREN FROM BEING PLACED FOR ADOPTION OUTSIDE THE STATE PRIOR TO TERMINATION OF PARENTAL RIGHTS OF THE BIOLOGICAL PARENTS, TO REVISE REQUIREMENTS THAT MUST BE MET PRIOR TO AN UNMARRIED BIOLOGICAL FATHER CONTESTING AN ADOPTION, TO PROVIDE THAT IN CERTAIN INSTANCES INTERSTATE COMPACTS FOR THE PLACEMENT OF CHILDREN SHALL BE RESCINDED AND THE CHILD RETURNED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SERVICE OF NOTICES OF ADOPTION, TO DELETE REFERENCE TO AN UNMARRIED BIOLOGICAL FATHER BEING DEEMED TO BE ON NOTICE THAT A PREGNANCY AND ADOPTION PROCEEDING MAY OCCUR AND OF CERTAIN ASSOCIATED DUTIES, TO PROVIDE FOR ACTUAL NOTICE OF A BIRTH AND TO PROVIDE FOR NOTICE OF INTENDED ADOPTION PROCEEDINGS, TO PROVIDE FOR THE FILING OF REGISTRATION OF NOTICE OF COMMENCEMENT OF PATERNITY FORM, TO PROVIDE FOR COMPLAINTS OF PATERNITY AND CUSTODY, TO PROVIDE FOR AFFIDAVITS OF COMMITMENT, TO PROVIDE FOR A SEARCH FOR AN UNMARRIED BIOLOGICAL FATHER, TO PROVIDE THAT IN THE EVENT AN UNMARRIED BIOLOGICAL FATHER'S LOCATION REMAINS UNKNOWN THAT THE ADOPTION ENTITY REQUEST IN THE PETITION FOR TERMINATION OF PARENTAL RIGHTS THAT THE COURT MAKE CERTAIN DECLARATIONS AND TO PROVIDE THAT NOTICE SHALL NOT BE REQUIRED IN THE EVENT AN UNMARRIED BIOLOGICAL FATHER SIGNS A CONSENT OR AFFIDAVIT OF NONPATERNITY; AMENDING SECTION 16-1513, IDAHO CODE, TO PROVIDE FOR THE PUTATIVE FATHER REGISTRY, TO PROVIDE THAT THERE ARE ALTERNATE WAYS IN WHICH A FATHER MAY CLAIM RIGHTS TO HIS PATERNITY, TO PROVIDE FOR THE COMPLETION OF NOTICE OF COMMENCEMENT OF PATERNITY PROCEEDINGS ONLINE, TO REVISE PROVISIONS RELATING TO FILING REQUIREMENTS FOR NOTICES OF COMMENCEMENT OF PATERNITY PROCEEDINGS, TO REVISE PROVISIONS RELATING TO WAIVERS AND ABANDONMENT RELATING TO FILING AND REGISTERING NOTICES OF COMMENCEMENT OF PATERNITY PROCEEDINGS, TO PROVIDE THAT A GOOD FAITH EFFORT BY AN UNMARRIED BIOLOGICAL FATHER SHALL BE DEEMED TO CONSTITUTE COMPLIANCE WITH REQUIREMENTS AND TO PROVIDE THAT FAILURE

1 OF AN UNMARRIED BIOLOGICAL FATHER TO PERFORM REQUIREMENTS SHALL BE  
 2 DEEMED WAIVED IF RESULTING FROM CERTAIN CONDUCT OR MISREPRESENTATIONS  
 3 OF OTHERS.

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

5 SECTION 1. That Section 7-1107, Idaho Code, be, and the same is hereby  
 6 amended to read as follows:

7 7-1107. LIMITATION OF ACTION. Proceedings to establish paternity of  
 8 the child may be instituted ~~only after the birth of the child~~ at any time and  
 9 must be instituted before the child reaches the age of majority as defined in  
 10 section 32-101, Idaho Code.

11 This section shall apply retroactively, and is for the benefit of any  
 12 dependent child, whether born before or after the effective date of this act,  
 13 and regardless of the past or current marital status of the parents.

14 SECTION 2. That Section 16-1501A, Idaho Code, be, and the same is hereby  
 15 amended to read as follows:

16 16-1501A. RIGHTS AND RESPONSIBILITIES OF PARTIES IN ADOPTION  
 17 PROCEEDINGS. (1) The legislature finds that the rights and interests of all  
 18 parties affected by an adoption proceeding must be considered and balanced  
 19 in determining what constitutional protections and processes are necessary  
 20 and appropriate.

21 (2) The legislature finds that:

22 (a) The state has a compelling interest in providing stable and  
 23 permanent homes for adoptive children in a prompt manner, in preventing  
 24 the disruption of adoptive placements, ~~and~~ in holding parents  
 25 accountable for meeting the needs of children, and in ensuring that  
 26 all adoption placements have been conducted in an ethical, lawful and  
 27 constitutional manner fulfilling the intent and manner prescribed by  
 28 the Idaho state legislature under subsection (1) of this section and  
 29 section 16-2001, Idaho Code;

30 (b) An unmarried mother, faced with the responsibility of making  
 31 crucial decisions about the future of a newborn child, is entitled to  
 32 privacy vis-a-vis the general public, and has the right to make timely  
 33 and appropriate decisions regarding her future and the future of the  
 34 child, and is entitled to assurance regarding the permanence of an  
 35 adoptive placement;

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

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

40 (e) Children have a right to the care and upbringing of any fit  
 41 biological parent who is willing to raise them;

42 (f) An unmarried biological father has an inchoate interest that  
 43 acquires constitutional protection only when he demonstrates a timely  
 44 and full commitment to the responsibilities of parenthood, both during  
 45 pregnancy and upon the child's birth. The state has a compelling  
 46 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; and

(g) An unmarried biological father must be afforded due process and actual notice so that he has a timely opportunity to demonstrate his commitment to providing support and establishing legal paternity before any adoption placement has occurred.

(3) (a) The legislature prescribes the conditions for determining whether an unmarried biological father's action is sufficiently prompt and substantial in response to adequate notice to require constitutional protection pursuant to sections 16-1504, 16-1505 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~~ paternity 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~~ has the primary responsibility to strictly ~~complies~~ comply with the provisions of this chapter, ~~manifests~~ manifest a prompt and full commitment to his parental responsibilities, and ~~establishes~~ establish 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 vis-a-vis the general public. Provided however, principles of adequate notice, due process and equal protection require that an unmarried mother disclose the name, and when possible the address and telephone number, of the biological father so that he may be afforded an opportunity to protect his rights and establish paternity pursuant to the provisions of Idaho law.~~

SECTION 3. That Section 16-1504, Idaho Code, be, and the same is hereby amended to read as follows:

16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption 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, unless the adoptee is eighteen (18) years of age or older;

(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 (2) (a) or (b) of this section have been proven~~ unless the biological father has failed to appear or adequately assert a paternal interest within thirty (30) days after receiving actual notice of an intended adoption proceeding or thirty (30) days after the birth of the child, whichever is later, or alternatively if it is proven that the biological father cannot be located after due diligence pursuant to the provisions of sections 16-1505 and 16-1513, Idaho Code;

(f) Any legally appointed custodian or guardian of the adoptee;

(g) The guardian or conservator of an incapacitated adult, if one has been appointed;

(h) The adoptee's spouse, if any; ~~and~~

(i) An unmarried biological father who has filed, or made a good faith effort to file, a voluntary acknowledgment of paternity with the vital statistics unit of the department of health and welfare pursuant to section 7-1106, Idaho Code, or any equivalent paternal registry in a state where the biological mother may have conceived or resided during conception; and

(j) The father of an illegitimate child who has adopted the child by acknowledgment.

(2) 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 the 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. Have 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 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 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~~ making a good faith effort to perform all of the acts described in this subsection prior to the ~~placement for~~ adoption of the child ~~in the home of prospective parents~~ or prior to the date of ~~commencement of any proceeding to terminate~~ the termination of the parental rights of the both birth mother parents, whichever event occurs ~~first~~ later. The father shall:

(i) Commence proceedings to establish paternity under section 7-1111, Idaho Code, and file 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) File a notice of his commencement of 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, pay 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.

(3) An unmarried biological father whose consent is required under subsection (1) or (2) 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.

(4) 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

1 wedlock, and that the putative father involved has not filed notice of his  
2 commencement of proceedings to establish his paternity, or if a filing is  
3 found, stating the name of the putative father and the time and date of  
4 filing. That certificate shall be filed with the court prior to the entrance  
5 of the final decree of adoption.

6 (5) An unmarried biological father who does not fully and strictly  
7 comply with each of the conditions provided in this section, is deemed to  
8 have waived and surrendered any right in relation to the child, including the  
9 right to notice of any judicial proceeding in connection with the adoption  
10 of the child, and his consent to the adoption of the child is not required.

11 Provided however:

12 (a) Before any child is placed with a third party or agency, an  
13 unmarried mother shall sign a notarized affidavit under penalty of  
14 perjury that she engaged in no conduct, nor made any promises or  
15 representations to the biological father which led to his failure to  
16 comply with any provision relating to the adoption of the child, or to  
17 the termination of the biological father's parental rights relating  
18 to the child, and said affidavit shall be filed with the court in the  
19 county where the child is born, and shall be personally served on the  
20 biological father along with a notice of intended adoption proceeding;

21 (b) No child shall be placed for adoption with any person or entity  
22 outside the state of Idaho until the parental rights of the biological  
23 parents have been terminated in the state of Idaho.

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

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

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

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

47 (b) The mother left that state without notifying or informing the  
48 unmarried biological father that she could be located in the state of  
49 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~~ made a good faith effort to comply 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, provided however, that this requirement shall be waived if the biological mother, or person, or adoption entity has engaged in conduct or made misrepresentations to the biological father which affected his efforts to comply with the requirements.

(9) Notwithstanding section 7-1107, Idaho Code, a proceeding to establish paternity filed pursuant to this section may be filed prior to the birth of the child.

(10) If the unmarried biological father has made a good faith effort to establish his parental rights, or if his failure to do so was caused by the conduct or misrepresentation by the biological mother, or person or adoption entity, the authorization by interstate compact for the placement of children allowing the child to leave the state of Idaho shall be rescinded and the child shall be returned to the county in which the father resides or other location ordered by the court.

SECTION 4. That Section 16-1505, Idaho Code, be, and the same is hereby amended to read as follows:

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 their parental rights have been previously terminated;

(b) Any person who has ~~registered notice~~ filed a registration of the commencement of paternity proceedings form with the vital statistics unit of the department of health and welfare 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 has a duty to protect his own rights and interests. He is therefore entitled~~

1 to actual notice of a birth ~~or~~ and of an intended adoption proceeding with  
 2 regard to ~~that the child only as provided in this section~~ and must file a  
 3 registration of notice of commencement of paternity form within thirty (30)  
 4 days after receiving actual notice of an intended adoption proceeding or  
 5 within thirty (30) days after the birth of the child, whichever is later,  
 6 with the vital statistics unit of the department of health and welfare  
 7 pursuant to section 16-1513, Idaho Code.

8 (3) (a) To ensure the legislative intent prescribed in sections  
 9 16-1501A, 16-1513 and 16-2001, Idaho Code, an adoption entity, attorney  
 10 or authorized person shall, before the child's birth and before placing  
 11 the child in the adoptive home, serve a notice of an intended adoption  
 12 proceeding upon any unmarried biological father who is identified  
 13 by the mother or who is identified by a diligent search of the Idaho  
 14 putative father registry. The notice shall include instructions and  
 15 the procedure for submitting a registration of notice of commencement  
 16 of paternity to the vital statistics unit of the department of health  
 17 and welfare and the address to which the claim must be sent and shall  
 18 specifically state that the father must, within thirty (30) days after  
 19 receipt of the notice of an intended adoption proceeding, or thirty (30)  
 20 days after the birth of the child, whichever is later, file a verified  
 21 complaint for paternity or custody. The notice shall also state that  
 22 if the unmarried biological father desires to contest the adoption  
 23 proceeding he must, within thirty (30) days after receipt of the notice  
 24 of an intended adoption proceeding, or thirty (30) days after the birth  
 25 of the child, whichever is later, file with the court an affidavit of  
 26 commitment to the child in substantial compliance with the provisions  
 27 of sections 16-1504 and 16-1513, Idaho Code. Instructions shall be  
 28 included directing him to provide the adoption entity with a copy of the  
 29 verified complaint filed with the court and the notice of commencement  
 30 of paternity filed with the vital statistics unit of the department of  
 31 health and welfare.

32 (b) If the mother identifies a potential unmarried biological father  
 33 whose location is unknown, the adoption entity shall conduct a search  
 34 pursuant to section 16-1513, Idaho Code. If the potential unmarried  
 35 biological father's location remains unknown after a search, the  
 36 adoption entity shall request in the petition for termination of  
 37 parental rights, that the court declare the search to be in compliance  
 38 with the provisions of sections 16-1504 and 16-1513, Idaho Code, that  
 39 the adoption entity has no further obligation to provide notice to  
 40 the potential unmarried biological father, and that the potential  
 41 unmarried biological father's consent to the adoption is not required.  
 42 Service of the notice of an intended adoption proceeding is not  
 43 mandatory in the event the unmarried biological father signs a consent  
 44 for adoption or an affidavit of nonpaternity.

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

48 (45) The notice required by this section may be served immediately  
 49 after commencement of proceedings to adopt a child but shall be served at  
 50 least twenty (20) days prior to the final dispositional hearing. The notice



1 shall specifically state that the person served must respond to the petition  
2 for adoption within twenty (20) days of service if he intends to intervene in  
3 or contest the adoption.

4 (~~56~~) (a) Any person who has been served with notice of an adoption  
5 proceeding and who wishes to contest the adoption shall file a written  
6 objection to the adoption in the adoption proceeding within twenty (20)  
7 days after service. The written objection shall set forth specific  
8 relief sought and be accompanied by a memorandum specifying the factual  
9 and legal grounds upon which the written objection is based.

10 (b) Any person who fails to file a written objection to the adoption  
11 within twenty (20) days after service of notice waives any right to  
12 further notice in connection with the adoption, forfeits all rights  
13 in relation to the adoptee, and is barred from thereafter bringing or  
14 maintaining any action to assert any interest in the adoptee.

15 (~~67~~) Service of notice under this section shall be made as follows:

16 (a) With regard to a person whose consent is necessary under section  
17 16-1504, Idaho Code, notice shall be given by personal service. Where  
18 reasonable efforts to effect personal service have been unsuccessful,  
19 the court shall order service by registered or certified mail to the  
20 last known address of the person to be notified and by publication once  
21 a week for three (3) successive weeks in a newspaper or newspapers to be  
22 designated by the court as most likely to give notice to the person to  
23 be served. The hearing shall take place no sooner than twenty (20) days  
24 after service of notice, or where service is by registered or certified  
25 mail and publication, the hearing shall take place no sooner than twenty  
26 (20) days after the date of last publication. Notice and appearance  
27 may be waived by any person in writing before the court or in the  
28 presence of, and witnessed by, a clerk of court or a representative of an  
29 authorized agency, provided that such parent has been apprised by the  
30 court or by such person of the meaning and consequences of the adoption  
31 proceeding. Where the person entitled to notice resides outside the  
32 state, the waiver shall be acknowledged before a notary of the state  
33 and shall contain the current address of said person. The person who  
34 has executed such a waiver shall not be required to appear. If service  
35 is by publication, the court shall designate the content of the notice  
36 regarding the identity of the parties. The notice may not include the  
37 name of the person or persons seeking to adopt the adoptee.

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

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

48 (~~78~~) Proof of service of notice on all persons for whom notice is  
49 required by this section shall be filed with the court before the final  
50 dispositional hearing on the adoption.

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

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

8       SECTION 5. That Section 16-1513, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10       16-1513. REGISTRATION OF NOTICE OF COMMENCEMENT OF PATERNITY  
11 PROCEEDINGS -- PUTATIVE FATHER REGISTRY. (1) A person who is the father  
12 or claims to be the father of a child born out of wedlock may claim rights  
13 pertaining to his paternity of the child by commencing proceedings to  
14 establish paternity under section 7-1111, Idaho Code, ~~and~~ or by filing  
15 with the vital statistics unit of the department of health and welfare  
16 notice of his commencement of proceedings to establish his paternity of  
17 the child born out of wedlock. The vital statistics unit of the department  
18 of health and welfare shall provide forms for the purpose of filing the  
19 notice of commencement of paternity proceedings, and the forms shall be  
20 made available through the vital statistics unit of the Idaho department  
21 of health and welfare and in the office of the county clerk in every county  
22 of this state and shall be posted on the website for the Idaho department of  
23 health and welfare along with a complete and accurate list of instructions  
24 for completing the notice of commencement of paternity proceedings online  
25 according to all of the requirements of this section. The forms shall  
26 include a written notification that filing pursuant to this section shall  
27 not satisfy the requirements of chapter 82, title 39, Idaho Code, and the  
28 notification shall also include the following statements:

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

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

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

45       (d) To be valid, a claim of parental rights of an abandoned child,  
46 abandoned pursuant to the provisions of chapter 82, title 39, Idaho  
47 Code, must be filed before an order terminating parental rights is  
48 entered by the court. A parent that fails to file a claim of parental  
49 rights prior to entry of an order terminating their parental rights is

1 deemed to have abandoned the child and waived and surrendered any right  
2 in relation to the child, including the right to notice of any judicial  
3 proceeding in connection with the termination of parental rights or  
4 adoption of the child;

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

14 When filing a notice of the commencement of paternity proceedings, a  
15 person who claims to be the father of a child born out of wedlock, shall file  
16 with the vital statistics unit of the department of health and welfare, the  
17 completed form prescribed by the vital statistics unit of the department of  
18 health and welfare. Said form will be filled out completely, signed by the  
19 person claiming paternity, and witnessed before a notary public.

20 (2) The notice of the commencement of paternity proceedings may  
21 be filed prior to the birth of the child, but must be filed ~~prior to the~~  
22 ~~placement for adoption of the child in the home of prospective parents~~  
23 ~~or prior to the date of commencement of any proceeding to terminate the~~  
24 ~~parental rights of the birth mother, whichever event occurs first~~ no later  
25 than thirty (30) days after receipt of the notice of an intended adoption  
26 proceeding, or thirty (30) days after the birth of the child, whichever is  
27 later, pursuant to the provisions of section 16-1505, Idaho Code. The notice  
28 of the commencement of paternity proceedings shall be signed by the person  
29 filing the notice and shall include his name and address, the name and last  
30 address of the mother, and either the birth date of the child or the probable  
31 month and year of the expected birth of the child. The vital statistics unit  
32 of the department of health and welfare shall maintain a registry for this  
33 purpose which shall be subject to disclosure according to chapter 3, title  
34 9, Idaho Code. The department shall record the date and time the notice of  
35 the commencement of proceedings is filed with the department. The notice  
36 shall be deemed to be duly filed with the department as of the date and time  
37 recorded on the notice by the department.

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

41 (4) Any father of a child born out of wedlock who has received notice  
42 but fails to file and register his notice of the commencement of paternity  
43 proceedings prior to the ~~placement for~~ termination of both biological  
44 parents' rights or prior to the adoption of the child ~~in the home of~~  
45 ~~prospective parents or prior to the date of commencement of any proceeding~~  
46 ~~to terminate the parental rights of the birth mother, whichever event occurs~~  
47 ~~first~~ later, is deemed to have waived and surrendered any right in relation  
48 to the child and shall be barred from thereafter bringing or maintaining  
49 any action to establish his paternity of the child. Failure of such filing  
50 or registration after said notices have been received shall constitute

1 an abandonment of said child. The filing and registration of a notice  
2 of the commencement of paternity proceedings by a putative father shall  
3 constitute prima facie evidence of the fact of his paternity in any contested  
4 proceeding under chapter 11, title 7, Idaho Code. The filing of a notice of  
5 the commencement of paternity proceedings shall not be a bar to an action for  
6 termination of his parental rights under chapter 20, title 16, Idaho Code.

7 (5) In any adoption proceeding pertaining to a child born out of  
8 wedlock, if there is no showing that the putative father has consented to the  
9 adoption, a certificate shall be obtained from the vital statistics unit of  
10 the department of health and welfare, signed by the state registrar of vital  
11 statistics, which certificate shall state that a diligent search has been  
12 made of the registry of notices from putative fathers, and that no filing has  
13 been found pertaining to the father of the child in question, or if a filing  
14 is found, stating the name of the putative father and the time and date of  
15 filing. That certificate shall be filed with the court prior to entry of a  
16 final decree of adoption.

17 (6) Identities of putative fathers can only be released pursuant to  
18 procedures contained in chapter 3, title 9, Idaho Code.

19 (7) To cover the cost of implementing and maintaining said registry,  
20 the vital statistics unit of the department of health and welfare shall  
21 charge a filing fee of ten dollars (\$10.00) at the time the putative father  
22 files his notice of his commencement of proceedings. It is the intent of  
23 the legislature that the fee shall cover all direct and indirect costs  
24 incurred pursuant to this section. The board of health and welfare shall  
25 annually review the fees and expenses incurred pursuant to administering the  
26 provisions of this section.

27 (8) A good faith effort by the unmarried biological father shall  
28 be deemed to constitute compliance with the requirements herein. If the  
29 conduct or misrepresentation of the unmarried biological mother, or person  
30 or adoption entity has affected the biological father's performance or  
31 ability to comply with any requirement under section 16-1513, Idaho Code,  
32 his failure to perform such requirement shall be deemed to be waived.

33 (9) Unwed biological fathers may register their intent to claim rights  
34 of paternity online, provided however, within five (5) working days of  
35 completing the online document, they must file a notarized registration of  
36 notice of commencement of paternity form with the vital statistics unit of  
37 the department of health and welfare at the address listed on the paternity  
38 form.

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