

TITLE 32
DOMESTIC RELATIONS

CHAPTER 7
DIVORCE ACTIONS

32-701. RESIDENCE REQUIRED BY PLAINTIFF. A divorce must not be granted unless the plaintiff has been a resident of the state for six (6) full weeks next preceding the commencement of the action.

[(32-701) 1874, p. 639, sec. 3; R.S., sec. 2469; reen. R.C., sec. 2659; am. 1917, ch. 125, sec. 1, p. 414; reen. C.L., sec. 2659; C.S., sec. 4639; am. 1931, ch. 77, sec. 1, p. 132; I.C.A., sec. 31-701; am. 1937, ch. 94, sec. 1, p. 131.]

32-702. DOMICIL OF PARTIES. In actions for divorce the presumption of law that the domicil of the husband is the domicil of the wife, does not apply. After separation each may have a separate domicil, depending for proof upon actual residence, and not upon legal presumptions.

[(32-702) R.S., sec. 2470; reen. R.C. & C.L., sec. 2660; C.S., sec. 4640; I.C.A., sec. 31-702.]

32-703. DEFAULT AND UNCORROBORATED STATEMENTS. A divorce may be granted upon the default of the defendant, upon the uncorroborated statement, admission or testimony of the plaintiff.

[(32-703) 1874, p. 639, sec. 8; R.S., sec. 2471; reen. R.C. & C.L., sec. 2661; C.S., sec. 4641; I.C.A., sec. 31-703; am. 1943, ch. 132, sec. 1, p. 269; am. 1983, ch. 30, sec. 1, p. 80.]

32-704. ALLOWANCE OF SUPPORT MONEY, COURT COSTS AND ATTORNEY FEES -- REPRESENTATION OF CHILD. 1. While an action for divorce is pending, the court may, in its discretion, on the motion of either party and upon showing made in conformity with section [32-705](#) or section [32-706](#), Idaho Code, whichever be appropriate, order the payment of temporary maintenance of either spouse by the other or temporary support of a child of the marriage, in amounts and on terms just and proper under the circumstances.

2. The court may, in its discretion, on the motion of either party enter a decree of legal separation, providing for custody of children, division of property, payment of debts, payment of child support, and payment of spousal support as set forth in the statutes governing domestic relations.

3. The court may from time to time after considering the financial resources of both parties and the factors set forth in section [32-705](#), Idaho Code, order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this act and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

4. The court may appoint an attorney or guardian ad litem to represent the interests of a minor or dependent child with respect to his or her support, custody, and visitation, but only in those instances where the court deems legal representation or other assistance is necessary beyond any court

ordered and court related services previously authorized for the particular case. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney or guardian ad litem. The order shall be made against either or both parents, except, if both parties are indigent, the costs, fees, and disbursements shall be borne by the county in which the action is pending.

[(32-704) 1874, p. 639, sec. 7; R.S., sec. 2472; reen. R.C. & C.L., sec. 2662; C.S., sec. 4642; I.C.A., sec. 31-704; am. 1980, ch. 378, sec. 2, p. 962; am. 1994, ch. 352, sec. 1, p. 1112; am. 2024, ch. 233, sec. 1, p. 815.]

32-705. MAINTENANCE. 1. Where a divorce is decreed, the court may grant a maintenance order if it finds that the spouse seeking maintenance:

- (a) Lacks sufficient property to provide for his or her reasonable needs; and
- (b) Is unable to support himself or herself through employment.

2. The maintenance order shall be in such amounts and for such periods of time that the court deems just, after considering all relevant factors which may include:

- (a) The financial resources of the spouse seeking maintenance, including the marital property apportioned to said spouse, and said spouse's ability to meet his or her needs independently;
- (b) The time necessary to acquire sufficient education and training to enable the spouse seeking maintenance to find employment;
- (c) The duration of the marriage;
- (d) The age and the physical and emotional condition of the spouse seeking maintenance;
- (e) The ability of the spouse from whom maintenance is sought to meet his or her needs while meeting those of the spouse seeking maintenance;
- (f) The tax consequences to each spouse;
- (g) The fault of either party.

[32-705, added 1980, ch. 378, sec. 4, p. 963; am. 1990, ch. 336, sec. 1, p. 917.]

32-706. CHILD SUPPORT. (1) In a proceeding for divorce or child support, the court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his or her support and education until the child is eighteen (18) years of age, without regard to marital misconduct, after considering all relevant factors which may include:

- (a) The financial resources of the child;
- (b) The financial resources, needs, and obligations of both the custodial and noncustodial parents which ordinarily shall not include a parent's community property interest in the financial resources or obligations of a spouse who is not a parent of the child, unless compelling reasons exist;
- (c) The standard of living the child enjoyed during the marriage;
- (d) The physical and emotional condition and needs of the child and his or her educational needs;
- (e) The availability of medical coverage for the child at reasonable cost as defined in section [32-1214B](#), Idaho Code; and
- (f) The actual tax benefit recognized by the party claiming the federal child dependency exemption.

(2) If the child continues his high school education subsequent to reaching the age of eighteen (18) years, the court may, in its discretion, and after considering all relevant factors which include those set forth in subsection (1) of this section, order the continuation of support payments until the child discontinues his high school education or reaches the age of nineteen (19) years, whichever is sooner.

(3) All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to [chapter 12, title 32](#), Idaho Code. Failure to include this provision does not affect the validity of the support order. The court shall require that the social security numbers of both the obligor and obligee be included in the order or decree.

(4) In a proceeding for the support of a child or a minor parent, the court may order the parent(s) of each minor parent to pay an amount reasonable or necessary for the support and education of the child born to the minor parent(s) until the minor parent is eighteen (18) years of age, after considering all relevant factors which may include:

- (a) The financial resources of the child;
- (b) The financial resources of the minor parent;
- (c) The financial resources, needs and obligations of the parent of the minor parent;
- (d) The physical and emotional condition and needs of the child and his or her educational needs; and
- (e) The availability of medical coverage for the child at reasonable cost as defined in section [32-1214B](#), Idaho Code.

(5) The legislature hereby authorizes and encourages the supreme court of the state of Idaho to adopt and to periodically review for modification guidelines that utilize and implement the factors set forth in subsections (1) through (4) of this section to create a uniform procedure for reaching fair and adequate child support awards. There shall be a rebuttable presumption that the amount of the award which would result from the application of the guidelines is the amount of child support to be awarded, unless evidence is presented in a particular case that indicates that an application of the guidelines would be unjust or inappropriate. If the court determines that circumstances exist to permit a departure from the guidelines, the judge making the determination shall make a written or specific finding on the record that the application of the guidelines would be unjust or inappropriate in the particular case before the court. When adopting guidelines, the supreme court shall provide that in a proceeding to modify an existing award, children of the party requesting the modification who are born or adopted after the entry of the existing order shall not be considered.

(6) If the court awards one (1) parent the right to claim tax benefits associated with his child or children, the court order need not list every applicable tax benefit. The parent who was awarded the tax benefits for the child or children shall attach a copy of the court order to his income tax return. The state tax commission shall recognize the award of tax benefits with respect to the child or children as applying to the child tax credit under section [63-3029L](#), Idaho Code, the food tax credit under section [63-3024A](#), Idaho Code, and any and all other state and federal tax deductions, exemptions, and credits for which the parent qualifies, unless the court order specifies otherwise.

[32-706, added 1980, ch. 378, sec. 5, p. 963; am. 1986, ch. 222, sec. 4, p. 604; am. 1989, ch. 411, sec. 1, p. 1003; am. 1990, ch. 410, sec. 1, p. 1137; am. 1996, ch. 430, sec. 1, p. 1463; am. 1998, ch. 292, sec. 5, p.

932; am. 2000, ch. 107, sec. 1, p. 236; am. 2000, ch. 412, sec. 1, p. 1305; am. 2008, ch. 328, sec. 1, p. 899; am. 2020, ch. 271, sec. 1, p. 792.]

32-707. SECURITY. The court may require reasonable security for providing maintenance or making any payments required under the provisions of this chapter, and may enforce the same by the appointment of a receiver, or by any other remedy applicable to the case.

[(32-707) R.S., sec. 2475; reen. R.C. & C.L., sec. 2665; C.S., sec. 4645; I.C.A., sec. 31-707; am. 1980, ch. 378, sec. 6, p. 964.]

32-708. WHAT PROPERTY LIABLE. When implementing and construing sections [32-705](#) through [32-707](#), Idaho Code, the court must resort, first, to the community property, then to the separate property of either party.

[(32-708) R.S., sec. 2476; reen. R.C. & C.L., sec. 2666; C.S., sec. 4646; I.C.A., sec. 31-708; am. 1980, ch. 378, sec. 7, p. 964.]

32-709. MODIFICATION OF PROVISIONS FOR MAINTENANCE AND SUPPORT. (1) The provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and only upon a showing of a substantial and material change of circumstances.

(2) The court may allow a credit against child support arrearages for periods of time exceeding one hundred twenty (120) days during which the minor children have lived primarily with the obligated parent with the knowledge and consent of the custodial parent.

[32-709, added 1980, ch. 378, sec. 8, p. 964; am. 2003, ch. 246, sec. 1, p. 638.]

32-710A. SUPPORT PAYMENTS PAID TO THE DEPARTMENT OF HEALTH AND WELFARE. A. Effective October 1, 1998, all payments for child support ordered pursuant to any decree of divorce or other order for support shall be paid, unless otherwise ordered by the court, to the department of health and welfare. The department shall keep a record of payments made under said order or decree and shall, within two (2) business days of receipt of such payment, transmit said payments to the person or persons entitled thereto by virtue of said order or decree. Whenever a child is in the physical care of a person or entity other than its parents and the department of health and welfare is providing child support services under title IV-D of the social security act, the department may, after written notice to the obligor and obligee and the opportunity for hearing set forth in paragraphs 1. through 3. of this subsection transmit payments under an order of support for said child to the person or entity who has physical care of said child, without further order of the court, whether or not such person or entity is the obligee under the support order.

1. The department shall send notice of its intent to transmit child support payments to the person or entity who has physical care of the child by registered or certified mail to the last known address of the obligor and obligee under an order for support of the child.

2. The obligor and obligee may file a written objection to the transmittal of child support payments with a court of proper jurisdiction within fourteen (14) days from the date the notice of transmittal is mailed. A

copy of the written objection shall be sent to the department of health and welfare.

3. After hearing in a court of proper jurisdiction and entry of an order, or if no written objection is made by the obligor or obligee, the department may transmit the payments under an order of support for the child to the person or entity who has physical care of the child.

B. Any person entitled to receive child support payments pursuant to any decree of divorce or other order for support may make application for enforcement services to the department of health and welfare as provided in section [56-203A](#), Idaho Code, when child support is not being paid as ordered.

C. All child support orders shall provide that the order will be enforced by income withholding pursuant to [chapter 12, title 32](#), Idaho Code. Failure to include this provision does not affect the validity of the support order or decree. The court shall require that the social security numbers of both the obligor and obligee be included in the order or decree.

[I.C., sec. 32-710A, as added by S.L. 1967, ch. 94, sec. 1, p. 202; am. 1969, ch. 237, sec. 1, p. 750; am. 1986, ch. 222, sec. 5, p. 593; am. 1990, ch. 90, sec. 1, p. 189; am. 1995, ch. 320, sec. 1, p. 1083; am. 1998, ch. 292, sec. 6, p. 933.]

32-712. COMMUNITY PROPERTY AND HOMESTEAD -- DISPOSITION. In case of divorce by the decree of a court of competent jurisdiction, the community property and the homestead must be assigned as follows:

1. The community property must be assigned by the court in such proportions as the court, from all the facts of the case and the condition of the parties, deems just, with due consideration of the following factors:

(a) Unless there are compelling reasons otherwise, there shall be a substantially equal division in value, considering debts, between the spouses.

(b) Factors which may bear upon whether a division shall be equal, or the manner of division, include, but are not limited to:

(1) Duration of the marriage;

(2) Any antenuptial agreement of the parties; provided, however, that the court shall have no authority to amend or rescind any such agreement;

(3) The age, health, occupation, amount and source of income, vocational skills, employability, and liabilities of each spouse;

(4) The needs of each spouse;

(5) Whether the apportionment is in lieu of or in addition to maintenance;

(6) The present and potential earning capability of each party; and

(7) Retirement benefits, including, but not limited to, social security, civil service, military and railroad retirement benefits.

2. If a homestead has been selected from the community property, it may be assigned to either party, either absolutely, provided such assignment is considered in distribution of the community property, or for a limited period, subject in the latter case to the future disposition of the court; or it may be divided or be sold and the proceeds divided.

3. If a homestead has been selected from the separate property of either, it must be assigned to the former owner of such property, subject to the power of the court to assign it for a limited period to the other spouse.

[(32-712) 1874, p. 634, sec. 12; R.S., sec. 2480; reen. R.C. & C.L., sec. 2670; C.S., sec. 4650; I.C.A., sec. 31-712; am. 1965, ch. 63, sec. 1, p. 98; am. 1980, ch. 378, sec. 9, p. 964.]

32-713. COMMUNITY PROPERTY AND HOMESTEAD -- ORDER FOR DISPOSITION. The court, in rendering a decree of divorce, must make such order for the disposition of the community property, and of the homestead as in this chapter provided, and, whenever necessary for that purpose, may order a partition or sale of the property and a division or other disposition of the proceeds.

[(32-713) 1874, p. 634, sec. 12; R.S., sec. 2481; reen. R.C. & C.L., sec. 2671; C.S., sec. 4651; I.C.A., sec. 31-713.]

32-714. COMMUNITY PROPERTY AND HOMESTEAD -- REVISION ON APPEAL. The disposition of the community property, and of the homestead, as above provided, is subject to revision on appeal in all particulars, including those which are stated to be in the discretion of the court.

[(32-714) 1874, p. 634, sec. 12; R.S., sec. 2482; reen. R.C. & C.L., sec. 2672; C.S., sec. 4652; I.C.A., sec. 31-714.]

32-715. JURISDICTION OF ACTIONS. Exclusive original jurisdiction of all actions and proceedings under this chapter is in the district court, but a judge thereof at chambers may make all necessary orders to carry out the provisions of this chapter. The powers and jurisdiction granted district judges shall apply to proceedings under this chapter.

[(32-715) 1874, p. 639, sec. 1; R.S., sec. 2483; reen. R.C. & C.L., sec. 2673; C.S., sec. 4653; I.C.A., sec. 31-715; am. 1937, ch. 210, sec. 1, p. 357; am. 2022, ch. 25, sec. 1, p. 71.]

32-716. RECONCILIATION PROCEEDINGS. No hearing on the merits upon grounds for divorce shall be held in any action for divorce, and no final decree of a court of competent jurisdiction shall be entered in any such case, except as hereinafter provided, until at least twenty-one (21) days after the commencement of the action and service of process. During such period of twenty-one (21) days, or at any time subsequent and prior to entry of final decree therein, the court, upon application of one (1) of the parties, may require a conference of the parties with a person or persons of his choosing, or persons selected by the court, in order to determine whether or not a reconciliation between the parties is practicable; provided, however, that nothing herein shall prevent the court from making such interim orders as may be just and equitable; provided, further, that nothing herein shall prevent the court from proceeding to try the matter on the merits and enter a final decree of divorce upon the agreement of both parties and with both parties present in person or represented by counsel at such trial.

In any action of divorce where grounds for divorce have been established, if the court finds that attempts at reconciliation are practicable and to the best interest of the family, the court may stay the proceedings for a period not to exceed ninety (90) days where there are minor children in the family.

The reconciliation procedures herein provided shall not be construed as a condonation on the part of either spouse of acts that may constitute grounds for divorce.

[I.C., sec. 32-716, as added by 1971, ch. 21, sec. 1, p. 34; am. 2019, ch. 28, sec. 1, p. 76.]

32-717. CUSTODY OF CHILDREN -- BEST INTEREST. (1) In an action for divorce the court may, before and after judgment, give such direction for the custody, care and education of the children of the marriage as may seem necessary or proper in the best interests of the children. The court shall consider all relevant factors which may include:

- (a) The wishes of the child's parent or parents as to his or her custody;
- (b) The wishes of the child as to his or her custodian;
- (c) The interaction and interrelationship of the child with his or her parent or parents, and his or her siblings;
- (d) The child's adjustment to his or her home, school, and community;
- (e) The character and circumstances of all individuals involved;
- (f) The need to promote continuity and stability in the life of the child; and
- (g) Domestic violence as defined in section [39-6303](#), Idaho Code, whether or not in the presence of the child.

(2) If the parent has a disability as defined in this section, the parent shall have the right to provide evidence and 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 court shall advise the parent of such right. Evaluations of parental fitness shall take into account the use of adaptive equipment and supportive services for parents with disabilities and shall be conducted by, or with the assistance of, a person who has expertise concerning such equipment and services. Nothing in this section shall be construed to create any new or additional obligations on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities.

(3) In any case where the child is actually residing with a grandparent in a stable relationship, the court may recognize the grandparent as having the same standing as a parent for evaluating what custody arrangements are in the best interests of the child.

(4) 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, 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.

(5) Nothing in this chapter shall be construed to allow discrimination on the basis of disability. In any case where the disability of a parent is found by the court to be relevant to an award of custody of a child, the court shall make specific findings concerning the disability and what effect, if any, the court finds the disability has on the best interests of the child.

(6) With reference to this section, when an active member of the Idaho national guard has been ordered or called to duty as defined in section [46-409](#), Idaho Code, or when a member of the military reserve is ordered to active federal service under title 10, United States Code, such military service thereunder shall not be a substantial or material and permanent change in circumstance to modify by reducing the member's previously decreed child custody and visitation privileges.

[(32-717) 1874, p. 639, sec. 7; R.S., sec. 2473; reen. R.C. & C.L., sec. 2663; C.S., sec. 4643; I.C.A., sec. 31-705; am. and redesignated 1980, ch. 378, sec. 3, p. 962; am. 1992, ch. 228, sec. 1, p. 678; am. 1995, ch. 128, sec. 1, p. 561; am. 2002, ch. 232, sec. 1, p. 664; am. 2003, ch. 250, sec. 1, p. 648; am. 2007, ch. 108, sec. 1, p. 313.]

32-717A. PARENTS' ACCESS TO RECORDS AND INFORMATION. Notwithstanding any other provisions of law, access to records and information pertaining to a minor child including, but not limited to, medical, dental, health, and school or educational records, shall not be denied to a parent because the parent is not the child's custodial parent. However, information concerning the minor child's address shall be deleted from such records to a parent, if the custodial parent has advised the records custodian in writing to do so.

[32-717A, added 1982, ch. 311, sec. 2, p. 776; am. 1998, ch. 151, sec. 1, p. 522.]

32-717B. JOINT CUSTODY. (1) "Joint custody" means an order awarding custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child or children of frequent and continuing contact with both parents. The court may award either joint physical custody or joint legal custody or both as between the parents or parties as the court determines is for the best interests of the minor child or children. If the court declines to enter an order awarding joint custody, the court shall state in its decision the reasons for denial of an award of joint custody.

(2) "Joint physical custody" means an order awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents or parties.

Joint physical custody shall be shared by the parents in such a way to assure the child a frequent and continuing contact with both parents but does not necessarily mean the child's time with each parent should be exactly the same in length nor does it necessarily mean the child should be alternating back and forth over certain periods of time between each parent.

The actual amount of time with each parent shall be determined by the court.

(3) "Joint legal custody" means a judicial determination that the parents or parties are required to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of a child or children.

(4) Except as provided in subsection (5), of this section, absent a preponderance of the evidence to the contrary, there shall be a presumption that joint custody is in the best interests of a minor child or children.

(5) There shall be a presumption that joint custody is not in the best interests of a minor child if one (1) of the parents is found by the court to be a habitual perpetrator of domestic violence as defined in section [39-6303](#), Idaho Code.

[32-717B, added 1982, ch. 311, sec. 3, p. 776; am. 1994, ch. 340, sec. 2, p. 1076.]

32-717C. ALLEGATIONS OF ABUSE -- INVESTIGATION. When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court shall order that an investigation be conducted by the department of health and welfare. A final award of custody or visitation may not be rendered until a report on that investigation is received by the court. That investigation shall be conducted by the department within thirty (30) days of the court's notice and request for investigation.

[32-717C, added 1995, ch. 275, sec. 1, p. 923.]

32-717D. PARENTING COORDINATOR. (1) Provided that a court has entered a judgment or an order establishing child custody in a case, the court may order the appointment of a parenting coordinator to perform such duties as authorized by the court, consistent with any controlling judgment or order of a court relating to the child or children of the parties, and as set forth within the order of appointment. The court shall direct the parenting coordinator to provide a status report to the court at a time and in a manner as determined by the court. Provided however, that the court shall require the parenting coordinator to provide a minimum of one (1) status report to the court at least once every six (6) months. At any time during the period of appointment, the court, on its own initiative, or upon request of the parenting coordinator or either party, may hold a status conference to review the continued appointment of the coordinator and/or the status of the case.

(2) Qualification, selection, appointment, termination of appointment, and prescribed duties and responsibilities of a parenting coordinator shall be based upon standards and criteria as adopted by the Idaho supreme court. Provided however, that standards and criteria for qualification and selection of a parenting coordinator, as adopted by the Idaho supreme court, shall not apply to a parenting coordinator selected and agreed to by the parties. In addition, as a condition of any appointment, a parenting coordinator shall:

(a) Be neutral to the dispute and to the parties;

(b) Be either selected pursuant to agreement of the parties or appointed by the court; and

(c) Prior to any appointment, and at their own cost, have submitted to a criminal history check through any law enforcement office in the state providing such service. The criminal history check shall include a statewide criminal identification bureau, the federal bureau of inves-

tigation criminal history check, the national crime information center and the statewide sex offender register. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho with a copy going to the applicant and shall be available for review by the court considering a parenting coordinator appointment prior to an appointment.

(3) In addition to those duties as authorized by the court pursuant to the order of appointment, the responsibilities of a parenting coordinator shall include collaborative dispute resolution in parenting. The parenting coordinator shall act to empower the parties in resuming parenting controls and decision-making, and minimize the degree of conflict between the parties for the best interests of the children.

(4) The court shall allocate the fees and costs of the parenting coordinator between the parties and may enter an order against either or both parties for the reasonable costs, fees and disbursements of the parenting coordinator. Any dispute regarding payment of the fees and costs of the parenting coordinator shall be subject to review by the court upon request of the parenting coordinator or either party.

(5) The court may award attorney's fees and costs to the prevailing party on a motion to set aside or modify the decision of a parenting coordinator.

[32-717D, added 2002, ch. 108, sec. 1, p. 306; am. 2012, ch. 45, sec. 1, p. 139; am. 2014, ch. 163, sec. 1, p. 458.]

32-717E. SUPERVISED ACCESS PROVIDERS -- RECORD CHECKS. In cases in which a court has ordered that contact between a person and one (1) or more children shall take place only in the presence of an approved provider, or where the court has ordered supervised exchanges or transfers of one (1) or more children, the court may appoint an individual or entity as a supervised access provider to provide such supervised access or to facilitate such exchanges or transfers. The qualifications and duties of supervised access providers shall be as specified in rules adopted by the supreme court. A supervised access provider who is paid for providing supervised access services shall, prior to acting in such capacity and at his or her own cost, submit to a fingerprint-based criminal history check through any law enforcement office in the state providing such service. The criminal history check shall include a statewide criminal identification bureau check, federal bureau of investigation criminal history check, child abuse registry check, adult protection registry check and statewide sex offender registry check. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho.

[32-717E, added 2007, ch. 106, sec. 1, p. 310.]

32-718. VEXATIOUS OR HARASSING MODIFICATION PROCEEDINGS. Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification proceeding is vexatious and constitutes harassment.

[32-718, added 1980, ch. 378, sec. 10, p. 965.]

32-719. VISITATION RIGHTS OF GRANDPARENTS AND GREAT-GRANDPARENTS. The district court may grant reasonable visitation rights to grandparents or

great-grandparents upon a proper showing that the visitation would be in the best interests of the child.

[32-719, added 1994, ch. 407, sec. 1, p. 1278.]

32-720. PETITIONS FOR MODIFICATION -- CHILD CUSTODY ORDERS -- SERVICE-MEMBERS. (1) In the event a petition for modification of a child custody order is filed during the time that the court action may be subject to the servicemembers civil relief act, 50 U.S.C. App. section 501 et seq., because one (1) of the parties is a servicemember as defined in said act, the court shall determine if said act applies to the action pursuant to the jurisdiction provisions of the act. If the court determines that the act does apply, the court shall thereafter act in compliance with the terms of said act and, in addition, the following shall apply to the extent not in violation of said act:

(a) If the court determines that modification is in the best interest of the child pursuant to the provisions of section [32-717](#), Idaho Code, and the party who is a servicemember is deployed, the court may only enter an order or decree temporarily modifying the existing child custody order during the period of deployment, and upon completion by the servicemember of the period of deployment, the order or decree shall expire sixty (60) days after notification to the court, and to all persons entitled to notice in the action, of the deployed servicemember's completion of deployment. Provided however, that:

(i) The court may thereafter conduct an expedited or emergency hearing for resolution of the child's custody on the filing of a motion, filed prior to the expiration of the order, alleging that it would not be in the best interests of the child pursuant to the provisions of section [32-717](#), Idaho Code, if the order expires;

(ii) If a motion is so filed, the temporary order shall be extended until the court rules on the motion; and

(iii) Following the return from deployment of a deploying parent and until the temporary order for child custody is terminated, the court shall enter a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interests of the child pursuant to the provisions of section [32-717](#), Idaho Code.

(b) If the deployment of a party who is a servicemember affects the party's ability or anticipated ability to appear at a regularly scheduled hearing related to a petition for modification of child custody, the court may provide for an expedited hearing to allow the servicemember to appear.

(c) If the deployment of a party who is a servicemember prevents the servicemember from appearing in person at a hearing related to a petition for the modification of child custody, the court may provide, upon reasonable advance notice to the parties, for the servicemember to present testimony and evidence by electronic means, if such can be done without prejudice to the ability of the servicemember to adequately and reasonably present such testimony and evidence.

(2) For purposes of this section:

(a) "Deployed" or "deployment" means military service performed in compliance with a valid order received by an active duty or reserve member of the armed services of the United States, national guard or United States coast guard to report for combat operations, contingency

operations, peacekeeping operations, temporary duty, a remote tour of duty or other active service for which the deploying party reports. The term shall include those members who are actually deployed as well as those members with valid orders preparing to be deployed;

(b) "Electronic means" includes communication by telephone, video teleconference or the internet.

[32-720, added 2013, ch. 215, sec. 1, p. 506.]