



LEGISLATURE OF THE STATE OF IDAHO



Sixty-seventh Legislature

First Regular Session - 2023

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO ADOPTION PROCEEDINGS; AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR RESIDENCY REQUIREMENTS IN ADOPTION PROCEEDINGS, TO REVISE PROVISIONS REGARDING ADOPTION PROCEEDINGS, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 16-1506, Idaho Code, be, and the same is hereby amended to read as follows:

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, unless the adoption arises from a child protective act case. 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, unless the adoption arises from a child protective act case. 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 case.

(3) Any person or persons whose consent is required shall execute such consent in writing, in a form consistent with the provisions of section

1 16-2005(4), Idaho Code, which consent being filed in the court where the
2 application is made, shall be deemed a sufficient appearance on the part of
3 such person or persons. If any adoptive parent, or a person not a minor being
4 adopted by a resident adult under the provisions of section 16-1501, Idaho
5 Code, is a member of the armed services and is unable to attend the hearing,
6 his appearance and testimony shall be received by means of deposition, which
7 shall be filed in the court at the time of the hearing.

8 (4) Prior to the placement for adoption of any child in the home of
9 prospective adoptive parents, ~~it shall be required that~~ a thorough social
10 investigation of the prospective adoptive family and all of its members,
11 consistent with the rules regarding such investigations promulgated by the
12 department of health and welfare, shall be completed and ~~that~~ a positive
13 recommendation for adoptive placement shall have been made. The social in-
14 vestigation may be performed by any individual who meets the requirements of
15 the law. A copy of the study must be submitted to the department and the de-
16 partment may impose a reasonable fee, not to exceed fifty dollars (\$50.00),
17 for oversight of such privately conducted studies. If the prospective adop-
18 tive parent has a disability as defined in this chapter, the prospective
19 adoptive parent shall have the right, as a part of the social study, to pro-
20 vide information regarding the manner in which the use of adaptive equipment
21 or supportive services will enable the parent to carry out the responsibili-
22 ties of parenting the child. The person performing the social investigation
23 shall advise the prospective adoptive parent of such right and shall con-
24 sider all such information in any findings or recommendations. The social
25 investigation of any prospective adoptive parent with a disability shall
26 be conducted by, or with the assistance of, an individual with expertise in
27 the use of such equipment and services. Nothing in this chapter shall be
28 construed to create any new or additional obligation on state or local gov-
29 ernments to purchase or provide adaptive equipment or supportive services
30 for parents with disabilities. In those instances where the prospective
31 adoptive parent is married to the birth parent or is the grandparent of the
32 child to be adopted, such social investigation shall be completed with re-
33 gard to the prospective adoptive parent only upon order of the court. In
34 exigent circumstances where the prospective adoptive parents are determined
35 by the court to have been unable to complete a social investigation of the
36 family with a positive recommendation prior to the time the child is placed
37 in the home, the child shall remain in the home unless the court determines
38 the best interests of the child are served by other placement. If exigent
39 circumstances exist, a social investigation shall be initiated within five
40 (5) days of placement. Once initiated, all studies shall be completed within
41 sixty (60) days. Upon the filing of a petition to adopt a minor child by a
42 person unrelated to the child or unmarried to a natural parent of the child,
43 and at the discretion of the court upon the filing of any other petition for
44 adoption, a copy of such petition, together with a statement containing the
45 full names and permanent addresses of the child and the petitioners, shall
46 within five (5) days be served by the court receiving the petition ~~within~~
47 ~~five (5) days~~ on the director of the department of health and welfare by reg-
48 istered mail or personal service. If no private investigation is conducted,
49 it shall then be the duty of the ~~said~~ director, through the personnel of
50 the department or through such qualified child-placing children's adoption

1 agency incorporated under chapter 30, title 30, Idaho Code, as the director
2 may designate, to verify the allegations of the petition, and, as soon as
3 possible not exceeding thirty (30) days after service of the petition on the
4 director, to make a thorough investigation of the matter to include in all
5 cases information as to the alleged date and place of birth and as to parent-
6 age of the child to be adopted as well as the source of all such information
7 and to report his findings in writing to the court. The investigative report
8 shall include reasonably known or available medical and genetic information
9 regarding both natural parents and sources of such information as well as
10 reasonably known or available providers of medical care and services to the
11 natural parents. A copy of all medical and genetic information compiled
12 in the investigation shall be made available to the adopting family by the
13 department or other investigating children's adoption agency prior to entry
14 of the final order of adoption. The petition, statement and all other pa-
15 pers, records or files relating to the adoption, including the preplacement
16 investigation and recommendation, shall be returned to the court with the
17 investigative report. The department of health and welfare or other chil-
18 dren's adoption agency may require the petitioner to pay all or any part of
19 the costs of the investigation. If the report disapproves of the adoption of
20 the child, motion may be made to the court to dismiss the petition.

21 (5) Proceedings for termination of parent-child relationship in accor-
22 dance with chapter 20, title 16, Idaho Code, and proceedings for adoption may
23 be consolidated and determined at one (1) hearing, provided that all of the
24 requirements of this chapter as well as chapter 20, title 16, Idaho Code, be
25 fully complied with. Nothing in either chapter shall be construed as lim-
26 iting the initiation of any petition for approval of a verified financial
27 plan for adoption expenses pursuant to section 18-1511, Idaho Code, prior
28 to the birth of the child ~~which~~ who is the subject of any adoption proceed-
29 ing. In all disputed matters under this chapter or chapter 20, title 16,
30 Idaho Code, the paramount criterion for consideration and determination by
31 the court shall be the best interests of the child.

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