

IN THE SENATE

SENATE BILL NO. 1021

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO JUVENILE PROCEEDINGS; AMENDING SECTION 16-2005, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING CONDITIONS UNDER WHICH TERMINATION MAY BE
3 GRANTED AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY
4 AND PROVIDING AN EFFECTIVE DATE.
5

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

7 SECTION 1. That Section 16-2005, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. (1) The
10 court may grant an order terminating the relationship where it finds that
11 termination of parental rights is in the best interests of the child and that
12 one (1) or more of the following conditions exist:

13 (a) The parent has abandoned the child;

14 (b) The parent has neglected or abused the child;

15 (c) The presumptive parent is not the biological parent of the child;

16 (d) The parent is unable to discharge parental responsibilities and
17 such inability will continue for a prolonged indeterminate period and
18 will be injurious to the health, morals or well-being of the child; or

19 (e) The parent has been incarcerated and is likely to remain incarcer-
20 ated for a substantial period of time during the child's minority.

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

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

28 (b) The following circumstances are present:

29 (i) Abandonment, chronic abuse or chronic neglect of the child.
30 Chronic neglect or chronic abuse of a child shall consist of abuse
31 or neglect that is so extreme or repetitious as to indicate con-
32 tinuing the relationship would result in unacceptable risk to the
33 health and welfare of the child;

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

38 (iii) Torture of a child; any conduct described in the code sec-
39 tions listed in section 18-8303(1), Idaho Code; battery or an
40 injury to a child that results in serious or great bodily in-
41 jury to a child; voluntary manslaughter of a child, or aiding or
42 abetting such voluntary manslaughter, soliciting such voluntary

1 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
2 seal the day and year in this certificate first above written.
3 (District Judge or Magistrate)

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

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

8 (b) The court receives an affidavit or a certificate from a court of
9 comparable jurisdiction stating that the consent or the surrender and
10 release was executed in accordance with the laws of the state in which it
11 was executed, or the court is satisfied by other showing that the con-
12 sent or surrender and release was executed in accordance with the laws
13 of the state in which it was executed.

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

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

29 (8) The court shall hold a hearing unless:

30 (a) A consent to termination signed by the parent or parents of the
31 child has been filed by an adoption agency licensed in the state of
32 Idaho;

33 (b) A consent to termination was filed in conjunction with a petition
34 for adoption of the child; or

35 (c) The termination is initiated by the department pertaining to a
36 child who is in the legal custody of the department.

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

44 SECTION 2. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after
46 July 1, 2025.