

IN THE SENATE

SENATE BILL NO. 1227

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO ADOPTION; AMENDING SECTION 16-1505, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTICE OF ADOPTION PROCEEDINGS.

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

SECTION 1. 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~~ 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 (201) 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 (201) days of service if he intends to intervene in or contest the adoption.

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

7 (b) Any person who fails to file a written objection to the adoption  
8 within twenty-one (201) days after service of notice waives any right to  
9 further notice in connection with the adoption, forfeits all rights in  
10 relation to the adoptee, and is barred from thereafter bringing or main-  
11 taining any action to assert any interest in the adoptee.

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

13 (a) With regard to a person whose consent is necessary under section  
14 16-1504, Idaho Code, notice shall be given by personal service. Where  
15 reasonable efforts to effect personal service have been unsuccessful,  
16 the court shall order service by registered or certified mail to the  
17 last known address of the person to be notified and by publication once  
18 a week for three (3) successive weeks in a newspaper or newspapers to be  
19 designated by the court as most likely to give notice to the person to  
20 be served. The hearing shall take place no sooner than twenty-one (201)  
21 days after service of notice, or, where service is by registered or cer-  
22 tified mail and publication, the hearing shall take place no sooner than  
23 twenty-one (201) days after the date of last publication. Notice and  
24 appearance may be waived by any person in writing before the court or in  
25 the presence of, and witnessed by, a clerk of court or a representative  
26 of an authorized agency, provided that such parent has been apprised by  
27 the court or by such person of the meaning and consequences of the adop-  
28 tion proceeding. Where the person entitled to notice resides outside  
29 the state, the waiver shall be acknowledged before a notary of the state  
30 and shall contain the current address of said person. The person who  
31 has executed such a waiver shall not be required to appear. If service  
32 is by publication, the court shall designate the content of the notice  
33 regarding the identity of the parties. The notice may not include the  
34 name of the person or persons seeking to adopt the adoptee.

35 (b) As to any other person for whom notice is required under this sec-  
36 tion, service by certified mail, return receipt requested, is suffi-  
37 cient. If that service cannot be completed after two (2) attempts, the  
38 court may issue an order providing for service by publication, posting,  
39 or by any other manner of service.

40 (c) Notice to a person who has registered a notice of his commencement  
41 of paternity proceedings with the vital statistics unit of the depart-  
42 ment of health and welfare in accordance with the requirements of sec-  
43 tion 16-1513, Idaho Code, shall be served by certified mail, return re-  
44 ceipt requested, at the last address filed with the department.

45 (7) Proof of service of notice on all persons for whom notice is re-  
46 quired by this section shall be filed with the court before the final dispo-  
47 sitional hearing on the adoption.

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

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