


 GO

Summary of State Statutes on Non-Resident Father Notification, Identification and Engagement in Child Welfare



*Citations and summaries of significant legislation appear below. The legislation summaries do not encompass the entire law; click on the citation to view the statute in its entirety. Inclusion of the summaries below should not be construed to mean that such laws represent "best practice" or are in accord with federal law.

A non-resident (or non-custodial) father is a parent who does not live in the same household as his child; he may be divorced or separated or may have never married the child's mother, according to the Department of Health and Human Services, Promoting Responsible Fatherhood . While state efforts in the location, identification, and engagement of non-residential fathers in child welfare programs differ, many states are looking at the requirement of locating non-resident fathers in a set timeframe and defining "due diligence" efforts.

While many states may have legislation in place around the notification, identification, and engagement to mothers, fathers, or parents in child welfare, the summary of legislation below is tailored to these efforts in child welfare to non-resident (non-custodial) fathers, unknown fathers, or absent parents. Due to different terminology used in various states or jurisdictions, it is possible that some relevant provisions are not included.

Approximately twenty-one states have enacted legislation around the notification, identification, and engagement of non-resident fathers in child welfare. This includes four states that allow or require that notification to parents regarding a child welfare proceeding be issued by publication and three states that determine a time frame for when parents or other adults shall be identified and notified of a child proceeding. Summaries of related state legislation are detailed below.

Summary of Legislation

| State | Citation | Summary |
|-------|---|--|
| AK | Alaska Stat. § 47.10.086 | Requires child welfare agencies to make timely, reasonable efforts to provide support services to families in the child welfare system. Agencies must also make reasonable efforts to provide and document reunification services offered to parents. But, the statute allows agencies to forgo reasonable efforts to reunify, if a court finds by clear and convincing evidence that the agency "conducted a reasonably diligent search over a time period of at least three months for an unidentified or absent parent and has failed to identify and locate the parent." |
| AZ | Arizona revised statutes 8-846 or 8-817 | Determines that if a child has been removed from the home, the court shall order the department to make reasonable efforts to provide services to the child and the child's parent. The court shall consider that reunification services are not required to be provided if the court finds by clear and convincing evidence that a party to the action provides a verified affidavit that states that a reasonably diligent search has failed to identify and locate the parent within three months after the filing of the dependency petition. |
| AR | 2009 Ark. Acts, HB 2013, Act 1311 | Requires the Department of Human Services to identify and provide notice to all adult grandparents and other adult relatives within 30 days of a juvenile transferred to the custody of the department. Requires court reports to include information and recommendations concerning placement and visitation with a grandparent or other adult relative. |
| CA | Cal. Welf. & Inst. Code § 290.1 | If the child welfare agency determines that a child should be removed from the home and a court petition is filed, the agency must provide notice to the following persons who are known before the initial court hearing: the mother, the father, the legal guardian(s), the child if the child is ten years of age or older, any known sibling of the child, any adult relative, and the attorney for the parents or guardians. |
| | Cal. Welf. & Inst. Code § 316.2 | Requires courts to attempt to identify any non-resident fathers at the initial hearing through various mechanisms. Courts are required to inquire of the mother or any other appropriate person about the identity and address of all presumed or alleged fathers. Each alleged father shall be provided notice at his last known address by certified mail alleging that he is or could be the father of the child and that the child is the subject of proceedings that could result in the |

| | | |
|-----------|--|---|
| | | termination of parental rights and adoption of the child. |
| | Cal. Welf. & Inst. Code § Section 366.26 | Reunification services need not be provided to a parent or guardian when the court finds, by clear and convincing evidence, that the whereabouts of the parent or guardian is unknown. A finding shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. |
| FL | Fla. Stat. Ann. § 63.062 | Defines diligent search of an agency as the efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the social service agency is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search. |
| | Fla. Stat. Ann. § 63.062 | Establishes that termination of parental rights pending an adoption may only be granted if written consent has been executed after the birth of the minor or notice has been served to the father of the minor. If the mother identifies a potential unmarried biological father whose location is unknown, the adoption entity shall conduct a diligent search to locate the father. If, upon completion of a diligent search, the potential unmarried biological father's location remains unknown and a search of the Florida Putative Father Registry fails to reveal a match, the adoption entity shall request in the petition for termination of parental rights pending adoption that the court declare the diligent search to be in compliance, that the adoption entity has no further obligation to provide notice to the potential unmarried biological father, and that the potential unmarried biological father's consent to the adoption is not required. |
| GA | Ga. Code Ann. § 19-11-9 | The department shall attempt to locate absent parents. The department is to serve as a registry for the receipt of information which directly relates to the identity or location of absent parents, to assist any governmental agency or department in locating an absent parent, to answer interstate inquiries concerning deserting parents, to coordinate and supervise any activity on a state level in search for an absent parent, and to develop guidelines for coordinating activities of any governmental department, board, commission, bureau, or agency in providing information necessary for location of absent parents. |
| ID | Idaho Code § 16-1505 | Notice of an adoption proceeding shall be sent to the following: any person or agency whose consent or relinquishment is required, unless that right has been terminated by waiver, relinquishment, consent or judicial action, or their parental rights have been previously terminated; any person who has registered notice of the commencement of paternity proceedings; the petitioner's spouse, if any, only if he or she has not joined in the petition; 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; 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 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. |
| | Idaho Code § 16-2007 | In those instances where a parent is missing or their address is unknown, after a diligent search is conducted to find them, the court may allow service to be issued by publication. |
| IN | 2007 Ind. Acts, SB 534, P.L. 146-2007 | Re-defined custody proceeding to not include proceedings for voluntary termination of parent-child relationships and adoptions. States that certain adoption notices are valid regardless of whether the notice is served within or outside the state and that adoption notices served on a putative father who is not a resident of the state are valid if certain conditions are met. Discussed the rights and processes for parents who have consented to termination of parental rights. |
| MN | Minn. Stat. Ann. § 259-49 | Notice of the hearing upon a petition to adopt a child must be given to the parent of the child if: the person has substantially supported the child; the person either was married to the person designated on the birth record as the natural mother within 325 days before the child's birth or married that person within ten days after the child's birth; the person has filed a paternity action within 30 days after the child's birth and the action is still pending; or the person has registered with the fathers' adoption registry. Such notice shall be served at least 14 days before the date of the hearing. If personal service cannot be made, the court may order service by publication. The petitioner or petitioner's attorneys shall make an affidavit setting forth the effort that was made to locate the parents, and the names and addresses of the known kin of the child. If satisfied that the parents cannot be served personally, the court shall order three weeks published notice to be given. |
| | Minn. Stat. Ann. § 260C-151 | Requires that notice be provided to the person who has custody or control of the child and is named in the initial court petition. The court must also issue notice to: (1) an adjudicated or |

| | | |
|-----------|---|---|
| | | presumed father of the child; (2) an alleged father of the child; (3) a non-custodial mother; and (4) a grandparent, if the child has lived with him/her within the two years preceding the court petition. |
| MO | Mo. Stat. Ann. § 210.127 | Defines "diligent search" as efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the social service agency is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search. |
| MT | Mont. Code Ann. §41-3-423 | Outlines the consequences associated with a father's failure to establish a relationship with his child in foster care. In each state, if a father does not acknowledge, establish a substantial relationship, or contribute to the support of the child, he has presumptively abandoned the child, taking away his ability to oppose a future adoption or termination of parental rights proceeding. |
| NH | N.H. Rev. Stat. Ann. § 170-B: 6 | Establishes that the court must notify the following individuals of pending adoption proceedings: anyone named by the mother in an affidavit, the birth or legal father, a person who claims to be the father and who has registered his claim of paternity with the office of child support or with a putative father registry in the state where the child was born, and a person who is openly living with the child or the child's mother or providing financial support to her and the child and who holds himself out to be the child's father before the mother's parental rights are terminated. |
| NV | Nev. Rev. Stat. Ann. § 128.085 | When the mother of an unborn child files a petition for termination of the father's parental rights, the father or putative father, if known, shall be served with notice of the hearing. The hearing shall not be held until the birth of the child or 6 months after the filing of the petition, whichever is later. |
| PA | Penn. Cons. Stat. Title 55 § 3490.17 | If a person takes a child into protective custody, the person shall verbally notify the child's parents, guardians or other custodians immediately and in writing within 24 hours, of the following: the child's whereabouts unless prohibited by a court order; the reason for taking the child into protective custody; and the telephone number of the local county agency. |
| RI | R.I. Gen. Laws § 40-11-7.1 | At an initial abuse or neglect hearing the court must, among other things, advise the parent(s) of the allegations in the petition and inquire of the mother "the identity of the biological father, if necessary." Rhode Island's statute does not require the court or agency to attempt to identify the non-resident father through any other means. |
| SD | S.D. Ann. Laws § 25-6-1.1 | A father of an illegitimate child shall have no rights to the service of process in adoption, dependency, or termination of parental rights proceedings unless he is known and identified by the mother or unless he acknowledged the child as his own by affirmatively asserting paternity, within 60 days of the birth of the child. |
| TN | 2008 Tenn. Pub. Acts, HB 3145, Chap. 1059 | Requires an adoption petition to contain a statement that the father registry has been consulted for claims to paternity of the child. Requires the petition for termination of parental rights to be sent to all courts where there is a pending custody, dependency, neglect or abuse proceeding concerning a person whose parental rights are sought to be terminated. |
| UT | Utah Ann. Code § 62A-4a-202.2 | Establishes that any peace officer or caseworker who takes a child into protective custody shall immediately use reasonable efforts to locate and inform, through the most efficient means available, the parents, including a non-custodial parent, the guardian, or responsible relative. Included in the information is: that the child has been taken into protective custody, the reasons for removal and placement of the child in protective custody, a written statement that explains their procedural rights and that resources are available to assist the child's parent or guardian. For purposes of locating and informing the non-custodial parent as required, the Division of Child and Family Services shall search for the non-custodial parent through the national parent locator database if the Division is unable to locate the non-custodial parent through other reasonable efforts. |
| VA | Va. Code Ann. § 16.1-277.01 | A child's parents, guardian, legal custodian, or other person is entitled to notice of a pending adjudication of an abused or neglected child. Notification is not required, however, if a judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable is sufficient evidence to forgo notifying the father of pending child welfare proceedings, unless there is other evidence before the court that refutes the affidavit. Failure to identify the father by the mother's affidavit will not delay or suspend proceedings; the adjudicatory hearing will be held and an order entered, without counsel appointed or substituted service provided to the unidentified father. Only when a petition seeking to terminate all parental rights is filed will additional efforts be made to identify the non-resident unknown father, such as service by certified mail or publication. |

| | | |
|-----------|-----------------------------|---|
| WA | Wash Rev. Code §§ 26-44-120 | Requires that if a child is taken into custody by child protective services, the child protective services worker shall take reasonable steps to advise any non-custodial parents, in a timely manner, of the same information shared with parents, including that the child has been taken into custody, the reasons why the child was taken into custody, and general information about the child's placement. |
| WV | W.Va. Code § 48-22-603 | If the court identifies an unknown father, then notice of the proceeding for adoption shall be served on the father so identified. If after consideration of the affidavit and/or the consideration of further evidence, the court finds that proper service cannot be made upon the father because his identity is unknown, the court shall order publication of the notice only if, on the basis of all information available, the court determines that publication is likely to lead to receipt of notice by the father. If the court determines that publication or posting is not likely to lead to receipt of notice, the court may dispense with the publication or posting |

For further information, contact Kelly Crane at kelly.crane@ncsl.org.

For more information and materials on father engagement in child welfare cases, visit the [website](#) for National Quality Improvement Center on Non-Resident Fathers and the Child Welfare System.

Denver Office

Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230

Washington Office

Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001

©2010 National Conference of State Legislatures. All Rights Reserved.