

ENROLLED SENATE
BILL NO. 270

BY: CAIN of the SENATE

and

MAXEY of the HOUSE

AN ACT RELATING TO CHILDREN AND GUARDIAN AND WARD; AMENDING SECTION 1, CHAPTER 297, O.S.L. 1985, AS LAST AMENDED BY SECTION 1, CHAPTER 198, O.S.L. 1989 AND 10 O.S. 1981, SECTIONS 83, AS LAST AMENDED BY SECTION 1, CHAPTER 309, O.S.L. 1990, 85, AS AMENDED BY SECTION 5, CHAPTER 230, O.S.L. 1987, SECTION 2, CHAPTER 309, O.S.L. 1990, AND 501, AS AMENDED BY SECTION 6, CHAPTER 198, O.S.L. 1989 (10 O.S. SUPP. 1990, SECTIONS 70, 83, 85, 90.5 AND 501), WHICH RELATE TO PATERNITY PROCEEDINGS AND 30 O.S. 1981, SECTION 6, AS AMENDED BY SECTION 26, CHAPTER 329, O.S.L. 1988, AND AS RENUMBERED BY SECTION 134, CHAPTER 329, O.S.L. 1988 (30 O.S. SUPP. 1990, SECTION 2-102), WHICH RELATES TO NOMINATION OF GUARDIAN; DESIGNATING CERTAIN COURT; DELETING ADMINISTRATIVE PROCEEDINGS AS METHOD OF PROCEEDING TO ESTABLISH PATERNITY; CLARIFYING CERTAIN LANGUAGE; REPEALING 10 O.S. 1981, SECTION 82, AS AMENDED BY SECTION 3, CHAPTER 230, O.S.L. 1987, SECTION 6, CHAPTER 297, O.S.L. 1985, AS LAST AMENDED BY SECTION 5, CHAPTER 198, O.S.L. 1989, SECTION 3, CHAPTER 309, O.S.L. 1990, SECTION 7, CHAPTER 297, O.S.L. 1985, AS AMENDED BY SECTION 4, CHAPTER 309, O.S.L. 1990 AND SECTION 8, CHAPTER 297, O.S.L. 1985, AS LAST AMENDED BY SECTION 5, CHAPTER 309, O.S.L. 1990 (10 O.S. SUPP. 1990, SECTIONS 82, 90.1, 90.1A, 90.2 AND 90.3), WHICH RELATE TO ADMINISTRATIVE HEARINGS AND NOTICE OF PATERNITY PROCEEDINGS; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 297, O.S.L. 1985, as last amended by Section 1, Chapter 198, O.S.L. 1989 (10 O.S. Supp. 1990, Section 70), is amended to read as follows:

Section 70. Proceedings to establish paternity may be brought ~~÷~~
~~1.~~ in the appropriate district court by civil proceedings brought by the mother, the father, guardian or custodian of the child, the Department of Human Services, the district attorney, a public or private agency or authority chargeable with the support of the child, or by the child. The court after determining paternity in a civil action shall provide for the support and maintenance of

the child. The court shall further make provision for custody and visitation based upon the best interests of the child; ~~or~~

~~2. in an administrative proceeding pursuant to Sections 90.1 through 90.3 of this title in cases being enforced by the Department of Human Services pursuant to Title IV, Part D, of the Federal Social Security Act, 42 U.S.C., Section 651 et seq.~~

SECTION 2. AMENDATORY 10 O.S. 1981, Section 83, as last amended by Section 1, Chapter 309, O.S.L. 1990 (10 O.S. Supp. 1990, Section 83), is amended to read as follows:

Section 83. A. An individual who has been judicially ~~or~~ ~~administratively~~ determined to be the father of a child is liable for the support and education of the child to the same extent as the father of a child born in wedlock. An action to enforce this obligation to support and educate the child may be brought by the mother or custodian or guardian of the child, by the public authority chargeable with the support of the child, or by the child. An action to determine paternity and to enforce this obligation may be brought any time before the eighteenth birthday of the child. An action to establish paternity under this act shall be available for any child for whom a paternity action was brought and dismissed because of the application of a statute of limitations of less than eighteen (18) years. If paternity has been judicially ~~or~~ ~~administratively~~ determined or if the father has acknowledged in writing that he is the father of the child, an action to enforce this obligation may be brought any time before the child reaches majority. The father's obligation to support is terminated if the child is adopted. The court may order the payments made to the mother or custodian or guardian of the child, or to some other person, corporation or agency to administer under the supervision of the court.

B. An individual who has been judicially ~~or~~ ~~administratively~~ determined to be the father of a child may be ordered to pay all or a portion of the costs of the birth and the reasonable expenses of providing for said child or the amount of public assistance paid to or for the benefit of said child prior to the determination of paternity, provided that liability for support provided before the determination of paternity may be imposed for only five (5) years preceding the filing of the action.

C. The amount of child support and other support shall be ordered and reviewed in accordance with the child support guidelines provided in Section 118 of Title 43 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 10 O.S. 1981, Section 85, as amended by Section 5, Chapter 230, O.S.L. 1987 (10 O.S. Supp. 1990, Section 85), is amended to read as follows:

Section 85. A settlement that is approved by the district court relieves the individual who has been judicially ~~or~~ ~~administratively~~ determined to be the father of a child of all other liability for the support and education of that child to the extent to which settlement is honored by him. When such a settlement is made the court shall require that the custodian of the child submit a plan to the court for the investment of all or a portion of such funds to provide for the needs of the child until the child reaches the age of majority. The court, at its discretion, may appoint a guardian ad litem to represent the minor child and said guardian ad litem shall be paid a reasonable fee for his services. The court may require that the custodian or guardian ad litem provide a periodic accounting to the court of the funds spent pursuant to the plan. Said plan may be modified at any time by the court upon a showing of a change of circumstances.

SECTION 4. AMENDATORY Section 2, Chapter 309, O.S.L. 1990 (10 O.S. Supp. 1990, Section 90.5), is amended to read as follows:

Section 90.5 In all cases of paternity and for arrearage of child support, the court ~~or administrative law judge~~ shall make inquiry to determine if the noncustodial parent has been denied reasonable visitation. If reasonable visitation has been denied by the custodial parent to the noncustodial parent, the court ~~or administrative law judge~~ shall include visitation provisions in the support order.

SECTION 5. AMENDATORY 10 O.S. 1981, Section 501, as amended by Section 6, Chapter 198, O.S.L. 1989 (10 O.S. Supp. 1990, Section 501), is amended to read as follows:

Section 501. In a civil action ~~or actions in the nature of a civil proceeding~~ in which paternity is a relevant fact, the court, upon its own initiative or upon suggestion made by or on behalf of any person whose blood is involved may, or upon motion of any party to the action shall, order the mother, child and putative father to submit to blood tests. If any party refuses to submit to such tests, the court may resolve the question of paternity against such party or enforce its order if the rights of others and the interests of justice so require unless such individual is found to have good cause for refusing to cooperate.

SECTION 6. AMENDATORY 30 O.S. 1981, Section 6, as amended by Section 26, Chapter 329, O.S.L. 1988, and as renumbered by Section 134, Chapter 329, O.S.L. 1988 (30 O.S. Supp. 1990, Section 2-102), is amended to read as follows:

Section 2-102. A. A guardian of the person or estate, or of both, of a child born, or likely to be born, may be nominated by will or by other written instrument, to take effect upon the death of the parent so nominating:

1. If the child is born in wedlock, by either parent or by both parents.

2. If the child is born out of wedlock, by the mother of the child or by the natural father of the child, if said natural father has acknowledged paternity pursuant to Section 55 of Title 10 of the Oklahoma Statutes or has been judicially ~~or administratively~~ determined to be the father of the child at a paternity proceeding pursuant to Section 70 of Title 10 of the Oklahoma Statutes, or by both such mother and father.

B. A nomination made by a parent who has relinquished parental rights pursuant to an adoption proceeding or whose parental rights have been terminated by a district court shall have no effect.

SECTION 7. REPEALER 10 O.S. 1981, Section 82, as amended by Section 3, Chapter 230, O.S.L. 1987, Section 6, Chapter 297, O.S.L. 1985, as last amended by Section 5, Chapter 198, O.S.L. 1989, Section 3, Chapter 309, O.S.L. 1990, Section 7, Chapter 297, O.S.L. 1985, as amended by Section 4, Chapter 309, O.S.L. 1990 and Section 8, Chapter 297, O.S.L. 1985, as last amended by Section 5, Chapter 309, O.S.L. 1990 (10 O.S. Supp. 1990, Sections 82, 90.1, 90.1A, 90.2 and 90.3), are hereby repealed.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 12th day of March, 1991.

President of the Senate

Passed the House of Representatives the 8th day of April, 1991.

Speaker of the House of
Representatives