

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)
2ND CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL NO. 122

By: Smith of the Senate

and

Steidley of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to family support; amending 10 O.S. 1991, Sections 89, as amended by Section 5, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1994, Section 89), which relates to paternity actions; clarifying which law governs determination of jurisdiction of certain actions; amending Section 48, Chapter 160, O.S.L. 1994 (43 O.S. Supp. 1994, Section 601-701), which relates to proceedings to determine parentage; clarifying which law governs certain actions; amending 63 O.S. 1991, Section 1-311, as amended by Section 7, Chapter 356, O.S.L. 1994, and Section 9, Chapter 356, O.S.L. 1994 (63 O.S. Supp. 1994, Sections 1-311 and 1-311.3), which relate to birth certificates and affidavits acknowledging paternity; deleting language providing for putative father affidavit; requiring certain information to be provided to certain persons and certain agencies; requiring certain filing of certain birth certificates; providing for noncodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 89, as amended by Section 5, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1994, Section 89), is amended to read as follows:

Section 89. A. The mother, putative father, guardian or custodian of the child, the Department of Human Services, a public or private agency or authority chargeable with the support of the child, or the child may bring an action in a civil proceeding in district court or by an administrative action through the Department of Human Services, to determine paternity and the amount of child support due and owing for the maintenance of the child.

B. Venue of an action to determine the paternity of a child pursuant to this section shall be, at the option of the plaintiff, in either the county where the putative father, mother, or child resides. If the mother or child or both the mother and child reside out-of-state, venue of an action to determine the paternity of a child pursuant to this section, at the option of the plaintiff, may be in the county where the putative father resides.

C. A court may exercise personal jurisdiction over a person, whether or not a resident of this state, who is the subject of a paternity action. When ~~the~~ a person who is subject to the jurisdiction of the court is outside the state, ~~he~~ the person may be served outside of the state by any method that is authorized by the statutes of this state. In an action brought in this state to determine paternity and which also seeks a support order, jurisdiction shall be determined pursuant to the Uniform Interstate Family Support Act.

D. The petition shall be verified as true by the affidavit of the plaintiff. A summons may be issued thereon and shall be served or publication made as in other civil cases.

E. The practice, pleading, and proceedings in such action shall conform to the rules prescribed by the code of civil procedure as far as the same may be applicable.

F. If the defendant fails to answer the petition of the plaintiff or appear for show cause hearing, then the court shall proceed to determine issues of paternity, support, custody and visitation in the same manner as provided for in actions for divorce.

G. Attorneys for the Department of Human Services may appear or initiate an action brought under this section on behalf of:

1. A recipient of Aid to Families with Dependent Children; or
2. A person not receiving Aid to Families with Dependent Children, including but not limited to the putative father, upon the request of such person and proper application pursuant to rules and regulations adopted by the Department. A reasonable fee and costs may be assessed for the services by the Department.

H. In a proceeding brought under subsection G of this section by the Department of Human Services, the court may, and unless it is not in the best interests of the child, shall, limit the issues in that proceeding to issues of paternity and support, unless issues of custody and visitation are specifically and affirmatively pled by the father.

SECTION 2. AMENDATORY Section 48, Chapter 160, O.S.L. 1994 (43 O.S. Supp. 1994, Section 601-701), is amended to read as follows:

Section 601-701. A. A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under ~~this act or a law substantially similar to this act~~ the Uniform Interstate Family Support Act, the Uniform Reciprocal Enforcement of Support Act, ~~or~~ the Revised Uniform Reciprocal Enforcement of Support Act, or a substantially similar law to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

B. In a proceeding to determine parentage, a responding tribunal of this state shall apply the ~~Uniform Parentage Act~~; procedural and substantive law of this state, and the rules of this state on choice of law.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-311, as amended by Section 7, Chapter 356, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-311), is amended to read as follows:

Section 1-311. A. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs, within seven (7) days after such birth. Provided, that when a birth occurs on a moving conveyance, a birth certificate shall be filed in the district in which the child was first removed from the conveyance.

B. When a birth occurs in an institution, the person in charge of the institution or his designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The physician in attendance shall certify to the facts

of birth and provide the medical information required by the certificate within five (5) days after the birth.

C. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

1. The physician in attendance at or immediately after the birth;

2. Any other person in attendance at or immediately after the birth; or

3. The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred and present at the birth.

D. 1. If the mother was married at the time of conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.

2. Except as otherwise provided by paragraph 3 of this subsection, if the mother was not married at the time of conception and birth, the name of the father shall be entered on the certificate of birth if:

a. a determination of paternity has been made by an administrative action through the Department of Human Services or a court of competent jurisdiction, in which case the name of the father shall be entered, or

b. the mother and father have signed an affidavit acknowledging paternity pursuant to Section ~~9~~ 1-311.3 of this ~~act~~ title and filed it with the State Registrar of Vital Statistics.

~~3. Effective November 1, 1994:~~

~~a. If the mother was not married at the time of conception or birth and paternity has not been established or acknowledged as specified in paragraph 2 of this subsection, the name of the~~

~~putative father shall be entered on a putative father affidavit attached to and maintained with the certificate of birth. The affidavit shall be prescribed by the State Department of Health in conjunction with the Department of Human Services and made available in such manner as birth certificate forms. The affidavit shall be prepared and filed by such persons and in such manner as birth certificates required by this section. The affidavit shall be signed by the mother and shall contain information identifying whether the mother wants the Department of Human Services to pursue child support for the child. The State Registrar of Vital Statistics shall maintain such affidavit in the birth certificate registry for each birth. Except as otherwise provided by subparagraph b of this paragraph, the State Registrar of Vital Statistics shall keep such affidavit confidential until paternity has been established or acknowledged in which case the name of the father shall be entered on the birth certificate.~~

~~b. The State Registrar of Vital Statistics shall make available upon request the name of the putative father to the Department of Human Services and to a court of competent jurisdiction for paternity actions, child support determinations or termination proceedings.~~

~~c. The State Registrar shall provide for the destruction of the putative father affidavit after paternity has been legally established and the name of the father has been entered on the birth certificate. The Department and the State Registrar may enter into interagency agreement for implementation of this paragraph. If paternity has not been established within twelve (12) months from the date of birth, the State Registrar shall forward~~

~~a certified copy of the Certificate of Birth and the original "putative father affidavit" to the Department of Human Services for filing.~~

~~d. The Department of Human Services shall give notice to such putative father as required by Section 6 of this act and provide for determination of paternity and child support.~~

E. Either of the parents of the child shall sign the certificate of live birth to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the seven (7) days prescribed in this section.

SECTION 4. AMENDATORY Section 9, Chapter 356, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-311.3), is amended to read as follows:

Section 1-311.3 A. Upon the birth of a child to an unmarried woman, the person required by Section 1-311 of Title 63 of the Oklahoma Statutes to prepare and file a birth certificate shall:

1. Provide ~~an opportunity for~~ written materials to the child's mother and/or natural father ~~to complete~~ including an affidavit acknowledging paternity on a form prescribed by the Department of Human Services. The completed affidavit shall be filed with the local registrar. The affidavit shall contain ~~or have attached:~~

- a. a ~~sworn~~ statement by the mother consenting to the assertion of paternity and stating that this is the father,
- b. a statement by the father that he is the natural father of the child, and
- c. ~~written information, furnished by the Department of Human Services, explaining the implications of signing, including parental rights and responsibilities, and~~
- ~~d.~~ the social security numbers of both parents;

2. Provide written information, furnished by the Department of Human Services, to the mother:

- a. explaining that the completed, notarized affidavit shall be filed with the local registrar,
- b. regarding the benefits of having her child's paternity established and of the availability of paternity establishment services, including a request for support enforcement services, and
- c. explaining the implications of signing, including parental rights and responsibilities; and

3. ~~Mail a copy of the~~ Provide the original affidavit acknowledging paternity to the Office of the State Registrar of Vital Statistics and copies shall be provided to the Department of Human Services Child Support Enforcement Division and to the mother and ~~putative~~ acknowledged father of the child. The Department of Human Services shall provide access to the affidavits acknowledging paternity via electronic means to the paternity registry created pursuant to Section 55.1 of Title 10 of the Oklahoma Statutes.

~~B. The person required by Section 1-311 of Title 63 of the Oklahoma Statutes to prepare and file a birth certificate is entitled to reimbursement for reasonable costs, which the State Board of Health shall establish by rule, when an affidavit acknowledging paternity is filed with the State Registrar of Vital Statistics.~~

~~C.~~ The Department of Human Services shall make such affidavits acknowledging paternity available at each county office of the Department and at the Office of the State Registrar of Vital Statistics and at the office of each local registrar.

SECTION 5. If birth certificates for births by unwed mothers were not accepted for filing by or not filed at the office of the State Registrar of Vital Statistics or at the office of a local registrar, as applicable, during the period of November, 1994, to the effective date of this act because a signed putative father affidavit was not received or completed, the Commissioner of Health is hereby required to provide for the filing of such birth certificates.

SECTION 6. NONCODIFICATION The provisions of Section 8 of this act shall not be codified in the Oklahoma Statutes.

SECTION 7. 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.

45-1-1349

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