

ENGROSSED HOUSE
BILL NO. 2528

By: Dank and Ferguson

An Act relating to children; amending 10 O.S. 1991, Section 70, as amended by Section 3, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1995, Section 70), which relates to establishment of paternity; changing statutory reference; modifying language; reducing time period for dispute of paternity affidavit; amending Section 6, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1995, Section 238.6B), which relates to notice of paternity; reducing time period for dispute of paternity; amending Section 9, Chapter 356, O.S.L. 1994, as amended by Section 4, Chapter 273, O.S.L. 1995 (63 O.S. Supp. 1995, Section 1-311.3), which relates to paternity affidavits; requiring completion and filing of paternity affidavit by certain persons and indicating order of priority; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 70, as amended by Section 3, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1995, Section 70), is amended to read as follows:

Section 70. A. Except as otherwise provided by law, a woman who gives birth to a child is the natural mother of the child.

B. Paternity may be established by:

1. A notarized written statement of the father and mother acknowledging paternity pursuant to Section ~~9 of this act~~ 1-311.3 of Title 63 of the Oklahoma Statutes. ~~Such~~ A statement acknowledging paternity shall have the same legal effect as an order of paternity entered in a court or administrative proceeding. ~~Such~~ A statement may be contested for a period of not more than ~~two (2) years~~ sixty (60) calendar days after signing the statement. Except for the child after ~~two (2) years~~ sixty (60) calendar days, paternity may not be disputed by anyone;

2. Scientifically reliable genetic tests, including, but not limited to, blood tests;

3. Court or administrative order; or

4. As otherwise provided by law.

C. Proceedings to establish paternity may be brought in the appropriate district court or through the Department of Human Services, Office of Administrative Hearings: Child Support, by the mother, the father, the guardian, or the 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.

D. An action to establish paternity shall be available to a child if commenced within one (1) year after the child reaches ~~the age of~~ eighteen (18) years of age.

SECTION 2. AMENDATORY Section 6, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1995, Section 238.6B), is amended to read as follows:

Section 238.6B A. The Department of Human Services may serve a notice of paternity and support obligations on an individual alleged to be the parent of a child for whom paternity has not been

judicially or administratively established. Venue for ~~such~~ this action shall be, at the option of the plaintiff, in the county where the mother, father, or child resides. Service of the notice shall be in the same manner as a summons in a civil action pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

B. The notice shall be verified and have attached to it a copy of any affidavit acknowledging paternity or any blood or other genetic test results, if available, and shall state:

1. The name and date of birth of any minor children, along with the name of the natural mother and custodian, if different than the mother or putative father;

2. The amount of child support and other support, including the amounts ordered pursuant to paragraph 3 of this subsection, to be ordered in accordance with the Child Support Guidelines provided in Section 118 of Title 43 of the Oklahoma Statutes;

3. The amount of reimbursement for the costs of the birth and the reasonable expenses of providing for said child which has accrued or is accruing, provided that the liability for the above costs shall be imposed for five (5) years preceding the issuance of the notice;

4. That health insurance for the child whenever ~~such~~ health insurance is available through employment or other group health insurance plan and that payment of proportionate share of any unreimbursed health costs shall be required;

5. The amount of reimbursement requested for the costs of the genetic test to determine paternity, if any;

6. That an immediate income assignment will be effectuated for payment of current support and any judgments entered;

7. That in the absence of genetic test results or an affidavit acknowledging paternity an order to appear and show cause why the administrative judge should not determine him to be the father will be issued;

8. That a father not served with a notice to appear and show cause may object to the notice of paternity and support obligations. To object he must, within twenty (20) days of the date of service, in writing, request a hearing to show cause why he should not be determined to be the father of any such children, liable for the support requested in the notice, for the costs accrued and accruing or the amount to be paid thereon;

9. That if the affidavit acknowledging paternity was signed within ~~two (2) years~~ sixty (60) days prior to the date of the notice, or in the absence of ~~such an~~ an affidavit, paternity may be disputed. If paternity is disputed, the Administrative Law Judge shall enter an order directing genetic tests to determine paternity and advise the putative father that if he fails to appear he will be in default and an order will be entered against him. If the putative father is not excluded, and the statistical probability of paternity according to scientifically reliable genetic tests including, but not limited to, blood tests is ninety-eight percent (98%) or less and he is contesting the issue of paternity, he may request the Department to remove the action to district court to determine paternity. If the statistical probability of paternity is greater than ninety-eight percent (98%), or the statistical probability is ninety-eight percent (98%) or less and the father does not request the Department to remove to district court within fifteen (15) days of the Department mailing the genetic test or other test results, determination of paternity shall become final for all intents and purposes and may be overturned only by appeal to district court. Any ~~such~~ request shall be in writing and served on the Department personally or by registered or certified mail;

10. That if the putative father fails to appear at the show cause hearing or if no notice to appear and show cause was served and no hearing is requested on or before twenty (20) days from the date of service, the finding of paternity shall become final. The

order may be docketed with the district court in the county of residence of the custodian, child or father; and

11. After paternity is determined, the Department will set a hearing to determine the child support amounts and send the parties notice of ~~such~~ the hearing by certificate of mailing. Failure to appear at ~~such~~ the hearing will result in a support order being entered against the father. The order may be docketed with the district court in the county of residence of the custodian, child, or father. The support order shall be enforced in the same manner as an order of the district court.

C. The Department may accept voluntary acknowledgments of support liability and support amounts.

D. If the father's name has not been entered on the child's birth certificate, the Department of Human Services shall notify the State Registrar of Vital Statistics who shall enter the father's name on the birth certificate.

E. If child support services are being provided pursuant to Section 237 of this title, prior to the issuance of the notice of paternity and support obligation, a father who denies paternity may request that a genetic test or other test be administered. The request for testing shall be in writing and served on the Department personally or by registered or certified mail.

F. If a request for testing is made pursuant to subsection B or E of this section, the Department shall arrange for the test and, pursuant to rules promulgated by the Department, may advance the cost of ~~such~~ the testing. The Department shall mail a copy of the test results by a certificate of mailing to the father's last-known address. If a request for genetic tests was made pursuant to subsection E of this section, the Department shall mail the notice of paternity and support obligations to the father by certificate of mailing to the father's last-known address.

G. If the test excludes the father from being a natural parent, the Department shall file a copy of the results with the State Registrar of Vital Statistics and shall dismiss any pending court or administrative collection proceedings based upon the affidavit acknowledging paternity. The State Registrar of Vital Statistics shall remove the father's name from the birth certificate.

SECTION 3. AMENDATORY Section 9, Chapter 356, O.S.L. 1994, as amended by Section 4, Chapter 273, O.S.L. 1995 (63 O.S. Supp. 1995, 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~~ this title to prepare and file a birth certificate shall:

1. Provide written materials to the child's mother ~~and/~~ or natural father, or both, 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 as provided in subsection B of this section. The affidavit shall contain:

- a. a 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. the social security numbers of both parents; and

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. Provide the~~ B. The affidavit acknowledging paternity shall be completed by the natural father of the child and filed by one of the following in the indicated order of priority:

1. The natural father of the child;

2. The mother of the child;

3. The attending physician; or

4. The person required by Section 1-311 of this title.

C. The original affidavit acknowledging paternity ~~to~~ shall be filed with 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 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.~~ D. The Department of Human Services shall make ~~such~~ the 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 4. This act shall become effective November 1, 1996.

Passed the House of Representatives the 11th day of March, 1996.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate

