ENGROSSED SENATE
BILL NO. 641

By: Dickerson of the Senate

and

Steidley of the House

[adoption - amending 10 O.S. and 63 O.S. - adoption - birth certificates and paternity affidavits - emergency]

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 58, is amended to read as follows:

Section 58. A. No adoption may be challenged on any ground either by a direct or collateral attack more than one (1) year after the entry of the final adoption decree regardless of whether the decree is void or voidable, and the minority or incompetence of the natural parent shall not operate to prevent this time limit from running.

B. In any challenge on any ground either by a direct or collateral attack, the court shall not enter a decision which is contrary to the best interests of the adopted child.

SECTION 2. 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~~ the birth~~. Provided~~; 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~~ a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate, and file ~~it~~ the certificate 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 or inability of the father ~~and the inability of the~~ or 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 by 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 of this act and filed it with the State Registrar of Vital Statistics.

3. Effective November 1, 1994:

a. ~~If~~ Unless consent to adoption has been given as otherwise provided by law, 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~~ the same manner as birth certificate forms. The affidavit shall be prepared and filed by ~~such~~ the same persons and in ~~such~~ the same 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~~ the 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~~ the 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 an interagency agreement for implementation of this paragraph. If paternity has not been established within twelve (12) months ~~from~~ after 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~~ the putative father as required by Section ~~6 of this act~~ 238.6B of Title 56 of the Oklahoma Statutes and provide for the 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 3. 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~~ Unless consent to adoption has been given as otherwise provided by law, 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 an opportunity for the child's mother and natural father to complete 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 name of the father,

b. a statement by the father that he is the natural father of the child,

c. written information, furnished by the Department of Human Services, explaining the implications of signing~~,~~ including an explanation of 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 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

3. Mail a copy of the affidavit acknowledging paternity to the Department of Human Services and to the mother and putative father of the child.

B. The person required by Section 1-311 of ~~Title 63 of the Oklahoma Statutes~~ this title 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 4. 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 14th day of March, 1995.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1995.

Speaker of the House of Representatives