STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1557 By: Seikel

AS INTRODUCED

An Act relating to child support; amending 10 O.S. 1991, Section 1132, as amended by Section 10, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1132), which relates to termination of parental rights; amending 12 O.S. 1991, Section 95, as last amended by Section 11, Chapter 356, O.S.L. 1994 (12 O.S. Supp. 1994, Section 95), which relates to limitation of actions; amending 43 O.S. 1991, Sections 112, as last amended by Section 12, Chapter 356, O.S.L. 1994, 118, as last amended by Section 14, Chapter 356, O.S.L. 1994, 118.1, as last amended by Section 24, Chapter 356, O.S.L. 1994, and 137, as last amended by Section 1, Chapter 366, O.S.L. 1994 (43 O.S. 1994, Sections 112, 118, 118.1 and 137), which relate to child support obligations; amending 56 O.S. 1991, Section 237, as last amended by Section 19, Chapter 356, O.S.L. 1994, and Section 18, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1994, Sections 166.1 and 237), which relate to paternity and person responsible for child support; amending 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), which

relates to birth certificates; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1132, as amended by Section 10, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1132), is amended to read as follows:

Section 1132. A. The termination of parental rights terminates the parent-child relationship, including <u>but not limited to</u> parent's right to the custody of the child and his right to visit the child, his right to control the child's training and education, the necessity for the parent to consent to the adoption of the child and the parent's right to the earnings of the child, and the parent's right to inherit from or through the child. Provided, that nothing herein shall in any way affect the right of the child to inherit from the parent.

B. 1. Except for adoptions as provided in paragraph 3 of this subsection, termination of parental rights shall not terminate the duty of either parent to support his or her minor child.

2. Any actual notice of termination of parental rights and order terminating parental rights shall indicate that the duty of the parent to support his or her minor child will not be terminated except for adoption as provided by paragraph 3 of this subsection.

3. Child support orders shall be entered by the court that terminates parental rights and shall remain in effect until the court of termination receives notice from the placing agency that a final decree of adoption has been entered and then issues an order terminating child support and dismissing the case.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 95, as last amended by Section 11, Chapter 356, O.S.L. 1994 (12 O.S. Supp. 1994, Section 95), is amended to read as follows:

Section 95. Civil actions other than for the recovery of real property can only be brought within the following periods, after the cause of action shall have accrued, and not afterwards:

1. Within five (5) years: An action upon any contract, agreement or promise in writing.

2. Within three (3) years: An action upon a contract express or implied not in writing; an action upon a liability created by statute other than a forfeiture or penalty; and an action on a foreign judgment.

3. Within two (2) years: An action for trespass upon real property; an action for taking, detaining or injuring personal property, including actions for the specific recovery of personal property; an action for injury to the rights of another, not arising on contract, and not hereinafter enumerated; an action for relief on the ground of fraud - the cause of action in such case shall not be deemed to have accrued until the discovery of the fraud.

4. Within one (1) year: An action for libel, slander, assault, battery, malicious prosecution, or false imprisonment; an action upon a statute for penalty or forfeiture, except where the statute imposing it prescribes a different limitation.

5. An action upon the official bond or undertaking of an executor, administrator, guardian, sheriff, or any other officer, or upon the bond or undertaking given in attachment, injunction, arrest or in any case whatever required by the statute, can only be brought within five (5) years after the cause of action shall have accrued.

6. An action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse incidents or exploitation as defined by Section 845 of

Title 21 of the Oklahoma Statutes or incest can only be brought within the latter of the following periods:

a. within two (2) years of the act alleged to have caused the injury or condition, or

b. within two (2) years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act or that the act caused the injury for which the claim is brought.

Provided, however, that the time limit for commencement of an action pursuant to this paragraph is tolled for a child until the child reaches the age of eighteen (18) years. No action may be brought against the alleged perpetrator or the estate of the alleged perpetrator after the death of such alleged perpetrator. An action pursuant to this paragraph must be based upon objective verifiable evidence in order for the victim to recover damages for injuries suffered by reason of such sexual abuse, exploitation or incest. The evidence should include both proof that the victim had psychologically repressed the memory of the facts upon which the claim was predicated and that there was corroborating evidence that the sexual abuse, exploitation or incest actually occurred. The victim need not establish which act in a series of continuing sexual abuse incidents, exploitation incidents or incest caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse, exploitation or incest. Provided further, any action based on intentional conduct specified in paragraph 6 of this section must be commenced within twenty (20) years of the victim reaching ~~the age of~~ eighteen (18) years of age.

7. An action to establish paternity and to enforce support obligations can be brought any time before the child reaches ~~the age of~~ eighteen (18) years of age.

8. An action to establish paternity can be brought by a child if commenced within one (1) year after the child reaches ~~the age of~~ eighteen (18) years of age.

9. An action for relief, not hereinbefore provided for, can only be brought within five (5) years after the cause of action shall have accrued.

SECTION 3. AMENDATORY 43 O.S. 1991, Section 112, as last amended by Section 12, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1994, Section 112), is amended to read as follows:

Section 112. A. A petition or cross-petition for a divorce, legal separation, or annulment must state whether or not the parties have minor children of the marriage. If there are children of the marriage, the court:

1. Shall make provision for guardianship, custody, medical care, support and education of the minor children;

2. Unless not in the best interests of the minor children, may provide for the visitation of the noncustodial parent with any of the children of such noncustodial parent; and

3. May modify or change any order whenever circumstances render such change proper either before or after final judgment in the action; provided, that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Human Services or other entity, by agreement of the Department or such entity. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order.

B. In awarding the custody of a minor unmarried child or in appointing a general guardian for the child, the court shall be guided by the provisions of Section 21.1 of Title 10 of the Oklahoma

Statutes and shall consider what appears to be in the best interests of the child.

C. 1. When it is in the best interests of the child, the court shall:

a. assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and

b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.

3. When in the best interests of a child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents. To this effect, in making an order for custody to either parent, the court:

a. may consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and

b. shall not prefer a parent as a custodian because of the gender of that parent.

4. In making an order for custody, the court may specify that:

a. unless there is a prior written agreement to change the permanent residence of the child either parent shall notify the other parent if such parent plans to change the permanent residence of the child, and

b. the noncustodial parent is to notify the custodial parent if such noncustodial parent plans to change permanent residence.

D. Any child shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a dependent child

is regularly and continuously attending high school, said child shall be entitled to support by the parents through ~~the age of~~ eighteen (18) years years of age. No hearing shall be required to extend such support through the age of eighteen (18) if the child is regularly and continuously attending high school.

E. In any case in which provision is made for the custody or support of a minor child or enforcement of such order, the court shall inquire whether public assistance money has been provided by the Department of Human Services for the benefit of each such minor child. If public assistance money has been provided for the benefit of the minor child, the Department of Human Services shall be a necessary party for the just adjudication and establishment of the debt due and owing the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes and for the just adjudication and establishment of current child support.

F. In any case in which a child support order or custody order or both is entered, enforced or modified, the court may make a determination of the arrearages of child support, if any.

SECTION 4. AMENDATORY 43 O.S. 1991, Section 118, as last amended by Section 14, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1994, Section 118), is amended to read as follows:

Section 118. A. Except in those cases where parties represented by counsel have agreed to a different disposition, there shall be a rebuttable presumption in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the ~~following~~ guidelines specified by this section is the correct amount of child support to be awarded. The district or administrative court may deviate from the level of child support suggested by these guidelines where the amount of support so indicated is unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child or children involved. The

court shall not take into account any stepchildren of such parent in making the determination, but in making such determination, the court may take into account the reasonable support obligations of either parent as to only natural, legal, or legally adopted minor children in the custody of said parent. If the district or administrative court deviates from the amount of support indicated by these guidelines, it shall make specific findings of fact supporting such action.

B. Child support guidelines are as follows:

1. All child support shall be computed as a percentage of the combined gross income of both parents. The Child Support Guideline Schedule as provided in Section 119 of this title shall be used for such computation. The child support obligations of each parent shall be computed, and the noncustodial parent's share shall be paid monthly to the custodial parent;

2. Gross income includes income from any source, except as excluded in Section 101 et seq. of this ~~act~~ title, and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts and prizes. Specifically excluded are actual child support received for children not before the court and benefits received from means-tested public assistance programs, including but not limited to Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind and the Disabled;

3. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and

necessary expenses for purposes of this section are amounts determined by the district or administrative court to be inappropriate for determining gross income for purposes of calculating child support. The district or administrative court shall carefully review income and expenses from self-employment or operation of a business to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. A determination of business income for tax purposes shall not control for purposes of determining a child support obligation.

Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they are significant and reduce personal living expenses. Such payments may include but are not limited to a company car, free housing, or reimbursed meals;

4. For purposes of computing gross income of the parents, the district or administrative court shall include for each parent, either the actual monthly income, the average of the gross monthly income for the time actually employed during the previous three (3) years, or the minimum wage paid for a forty-hour week, whichever is the most equitable. If equitable, the district or administrative court may instead impute as gross monthly income for either parent the amount a person with comparable education, training and experience could reasonably expect to earn; provided, however, that if a person is permanently physically or mentally incapacitated, the child support obligation shall be computed on the basis of actual monthly gross income;

5. The amount of any preexisting district or administrative court order for current child support for children not before the court or for support alimony arising in a prior case shall be deducted from gross income to the extent payment is actually made under such order;

6. The amount of reasonable expenses of the parties attributable to debt service for preexisting, jointly acquired debt of the parties may be deducted from gross income to the extent payment of such debt is actually made. In any case where deduction for such debt service is made, the district or administrative court may make provision for prospective upward adjustments of support made possible by the reasonable anticipated reduction or elimination of such debt service;

7. The results of paragraphs 2, 3, 4, 5 and 6 of this subsection shall be denominated "adjusted gross income";

8. The adjusted gross income of both parents shall be added together and the Child Support Guideline Schedule consulted for the total combined child support;

9. After the total combined child support is determined, the percentage share of each parent shall be allocated by computing the percentage contribution of each parent to the combined adjusted gross income and allocating that same percentage to the child support obligation to determine the base child support obligation of each parent;

10. The actual dependent medical insurance premium shall be determined by the district or administrative court. The premium shall be allocated between the parents in the same proportion as base child support;

11. The obligor shall receive credit for the obligee's allocated share of medical insurance premium which the obligor pays directly to the provider. The obligor shall pay his or her (obligor's) allocated share of the medical insurance premiums to obligee, if obligee pays the premium to the provider;

12. The district or administrative court shall then determine the "actual" child care expenses reasonably necessary to enable both parents to maintain employment or to conduct an active search for employment;

13. The actual child care costs incurred due to employment or active employment search of either parent, or incurred as a result of either parent actually attending school for the purpose of enhancing their employment or income, shall be allocated in the same proportion as base child support. Provided, if the district or administrative court determines that it will not cause detriment to the child, in lieu of payment of child care costs incurred while the custodial parent is attending school, the noncustodial parent may be allowed to provide alternate care of the child during such time. The noncustodial parent shall be designated the "obligor". The custodial parent shall be designated the "obligee". Obligor's proportionate amount of the child care fee for that month shall be paid to the obligee on or before the date the child care fee is due to the provider. The district or administrative court shall require the obligee to provide obligor with timely documentation of any change in the amount of the child care fee;

14. Visitation transportation expenses shall be determined by the court on a case by case basis and may be allocated as an addition to or as a credit against the child support obligation of the obligor. Such expenses may be adjusted at any time the court deems it equitable;

15. Payment of reasonable and necessary medical, dental, orthodontic, optometrical, psychological or any other physical or mental health expenses of the child not reimbursed by insurance shall be determined by the district or administrative court on a case by case basis and may be allocated in addition to the child support obligation of the payor, as a percentage contribution by each parent toward future expenses;

16. If the district or administrative court adopts a joint custody plan meeting the requirements of Section 109 of this title, the plan must provide for the support of the child equivalent to the amount of combined support the child would otherwise receive under

these guidelines. The district or administrative court shall have the authority, however, to accept a plan which allocates the payment of actual expenses of the children, rather than designating one custodial parent the "obligor" and one the "obligee", if the district or administrative court finds the payments allocated to each respective parent are substantially equivalent to the amount of the child support obligation of the parent under these guidelines;

17. If each parent is awarded custody of one or more children, the child support obligation of each parent shall be computed for each custodial arrangement separately using the percentage applicable for the children residing with each parent. The obligation of each parent shall be compared with the other. The difference between the obligations of each parent shall be paid to the parent with the smaller obligation in order to equalize the child support spent on all of the children, regardless of the custodial arrangements. The court shall not take into account any stepchildren of such parent in making the determination but only natural, legal, or legally adopted minor children in the custody of either parent may be taken into account in determining child support;

18. The district or administrative court may make adjustments to child support guidelines for periods of extended visitation;

19. Child support orders may be modified if the support amount is not in accordance with the child support guidelines or upon other material change in circumstances. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order. The child support guidelines provided in this act shall be used in computing child support, subject to the discretion of the district or administrative court to deviate from the guidelines where the amount of support is unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the

best interests of the child or children involved, and such deviation is supported by specific findings. A child support order shall not be construed to be a per child order unless specified by the district or administrative court in the order. Child support is not automatically modified in a child support order which provides for more than one child when one of those children reaches majority or is not otherwise entitled to support pursuant to the support order; however, such circumstance shall constitute a material change in circumstances;

20. The child support computation worksheet provided in Section 120 of this title shall be signed by the district judge or administrative law judge;

21. Child support orders may include such provisions as the district or administrative court deems appropriate to assure that the child support payments to the custodial parent are used for the support of the child;

22. The district or administrative court shall require and enforce a complete disclosure of assets by both parents; and

23. Child support orders issued for prior-born children of the payor may not be modified for the purpose of providing support for later-born children.

SECTION 5. AMENDATORY 43 O.S. 1991, Section 118.1, as last amended by Section 24, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1994, Section 118.1), is amended to read as follows:

Section 118.1 A. The Department shall commence a review of all orders in which child support rights have been assigned as provided pursuant to Section 237 of Title 56 of the Oklahoma Statutes, to determine whether the amount of child support ordered is in accordance with the child support guidelines <u>pursuant to Section 118 of this title</u> and provides for medical coverage. Such review shall be conducted every thirty-six (36) months. In all other cases in which child support services are being provided under the state

child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes, the Department shall conduct a review upon the request of either party. All reviews will be conducted pursuant to rules promulgated by the Department. Prior to such review, all parties shall receive notice of the review as provided by law. If the Department determines that individual awards are not in accordance with such guidelines, the case shall be presented to the district or administrative court for action. The district or administrative court shall review the award to determine its compliance with child support guidelines and order modification if appropriate.

B. In any proceeding to establish or modify a support order, each party shall completely disclose ~~his or her~~ the financial status of such party.

SECTION 6. AMENDATORY 43 O.S. 1991, Section 137, as last amended by Section 1, Chapter 366, O.S.L. 1994 (43 O.S. Supp. 1994, Section 137), is amended to read as follows:

Section 137. A. Any payment or installment of child support ordered pursuant to any order, judgment or decree of the district court or administrative order of the Department of Human Services is on and after the date it becomes past due a judgment by operation of law. ~~Such judgments~~ Judgments for past due support shall:

1. Have the full force and effect of any other judgment of this state, including the ability to be enforced by any method available under the laws of this state to enforce and collect money judgments; and

2. Be entitled to full faith and credit as a judgment in this state and any other state.

B. ~~Such judgments~~ Judgments shall be subject to collection action only after the child support obligor has been given notice and opportunity for a court or administrative hearing to determine the amount that is past due, provided that if the obligor has been

given a hearing in some other proceeding to contest the amount past due, he shall not be entitled to another hearing to determine whether amounts are past due for the same time period.

C. Unless execution is issued and filed within five (5) years from date of judgment or last execution on said judgment as required by law, a judgment for past due child support shall become dormant for all purposes except for enforcement of the judgment by:

1. An income or wage assignment initiated pursuant to the laws of this state or any other state;

2. Periodic payments from the judgment debtor by order of the district court or of the Department of Human Services; or

3. Referral of the past due amount to the federal Internal Revenue Service and, if appropriate, to the Oklahoma Tax Commission or another state's taxation agency for interception of the judgment debtor's annual state and federal tax refund in cases being enforced by the Department of Human Services.

An order that provides for payment of child support, if willfully disobeyed, may be enforced by indirect civil contempt proceedings, notwithstanding that the support payment is a judgment on and after the date it becomes past due.

D. An arrearage payment schedule set by a court or administrative order shall not exceed three (3) years, unless imposition of such a payment schedule would be unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child or children involved. When making such determination, reasonable support obligations of either parent as to other children in the custody of said parent may be considered. If an arrearage payment schedule that exceeds three (3) years is set, specific findings of fact supporting such action shall be made.

SECTION 7. AMENDATORY 56 O.S. 1991, Section 237, as last amended by Section 19, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1994, Section 237), is amended to read as follows:

Section 237. A. The Department of Human Services, ~~hereinafter referred to as "Department",~~ as the single state agency designated to administer a statewide plan for child support, is authorized, in accordance with Title IV, Part D, of the Federal Social Security Act, as amended, 42 U.S.C., Section 651 et seq. to provide child support collection, parent location services and paternity determination services to enable it to participate in programs established by federal law.

B. The Department is authorized to:

1. Accept, transfer and expend funds made available by the government of the United States, the State of Oklahoma and public or private sources, for the purpose of carrying out the provisions of this section;

2. Promulgate rules to provide child support services;

3. Initiate legal actions needed to implement the provisions of this section;

4. Enter into contracts or agreements necessary to administer this section;

5. Request agencies and political subdivisions of the state, county or municipality to search their records and furnish to the Department information concerning names and addresses to assist in the locating of absent parents; and

6. Request information to assist in locating said individuals, from any state agency, political subdivision of the state, person, sole proprietorship, corporation, utility, partnership, association or organization doing business in this state, who or which shall provide such information to the Child Support Enforcement Division when the Child Support Enforcement Division of the Department of Human Services has reason to believe that individuals are not providing for the support of their children.

C. 1. An applicant for or recipient of Aid to Families with Dependent Children, hereinafter referred to as "recipient", shall be

required to assign to the Department any rights of or support from any other person which the recipient may have in his or her own behalf or for a child for whom the recipient is applying for or receiving assistance, including the right to an amount accrued at the time the assignment is executed.

2. When an order has been entered which provides for payment of child support and the legal custodian and obligee pursuant to the order relinquishes physical custody of the child to a caretaker relative who is a recipient, without obtaining a modification of the order to change legal custody, and the caretaker relative makes an assignment of support rights for that child to the Department, the relinquishment and assignment, by operation of law, shall create a presumption that the recipient has physical custody of the child and shall transfer the child support obligation pursuant to the order to the Department. The assignment and transfer of the obligation shall terminate when the caretaker relative no longer has physical custody of the child, except for the amount of unpaid support still owing to the Department pursuant to the assignment.

3. If an assignment has been made pursuant to this section or a proper application made by an individual not receiving Aid to Families with Dependent Children, support payments shall be made to the Department. If a court has ordered support payments to be made to the recipient or the applicant, the Department may file notice of such assignment or application with the court ordering the payments. The notice shall include:

a. a statement that the assignment or application has been made;

b. the name of the child for whom support has been ordered by the court and the name of the recipient or custodian of the child;

c. the style and cause number of the case in which support was ordered; and

d. a request that payments so ordered be made to the Department. Upon receipt of the notice, and without a requirement of a hearing, the court shall order the payments to be made to the Department.

4. Said order to redirect the payments shall be sent to the obligor by regular mail with proof of mailing from the United States Postal Service. If after notice of said redirection the obligor does not make payments to the Department as ordered, said payments shall not be credited to the amount owed. The obligor shall notify the Department of any change of address, the name and address of the current employer and access to health insurance and other insurance policy information within ten (10) days of any change.

D. When support rights have been assigned to the Child Support Enforcement Division or upon proper application by an obligor or by an individual not receiving Aid to Families with Dependent Children, the Division may petition the district court or the Office of Administrative Hearings: Child Support, an administrative court of the Department of Human Services, for an order requiring obligor to provide medical insurance for the dependent children whenever it is available through employment or other group plan regardless of whether obligor has insurance coverage available at that time and/or there has been a change of circumstances, establish medical support and child support, enforce orders for medical support or other support, require that the obligor keep the Division informed of the name and address of the current employer of the obligor and access to health insurance and other insurance policy information of the obligor within ten (10) days of any change, and make collection and distribution of child support monies, assist in the judicial determination of the paternity of a child born out of wedlock by a district or administrative court and in location of absent parents, in cooperation with federal agencies, other agencies of this state and of other states, territories, and foreign nations requesting

assistance with the enforcement of support orders entered in the United States and elsewhere. The Division may petition the district or administrative court to modify any order for support regardless of whether there has been a change of circumstances. A reasonable fee and costs may be assessed for services to individuals not receiving Aid to Families with Dependent Children under rules adopted by the Department.

E. Child support payments made to the Division pursuant to this section shall be deposited in the Child Support Escrow Account for distribution as may be required by Section 235 of this title, or by 42 U.S.C., Section 651 et seq. Fees or reimbursements of costs collected by the Department shall be deposited in the Administration Fund of the Department and may be used and expended by the Department for the purposes of carrying out the provisions of this section.

F. Except as otherwise authorized by law, all files and records concerning the assistance and services provided under this section or concerning a putative father of a child born out of wedlock are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent location or Aid to Families with Dependent Children programs. Information may be released to public officials under rules adopted by the Department, consistent with federal rules or regulations.

SECTION 8. AMENDATORY Section 18, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1994, Section 166.1), is amended to read as follows:

Section 166.1 Any person who makes application with the Department of Human Services for medical assistance resulting from the birth of any child shall provide the name of ~~the~~ <u>any</u> person ~~or~~

~~persons~~ legally responsible for the support of such child prior to receipt of ~~any such~~ the medical assistance.

SECTION 9. 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~~ 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~~ the designated representative of such person 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 of this act~~ Section 1-311.3 of this 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 10. This act shall become effective November 1, 1995.

45-1-5465 KSM