

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1077

By: Fields

COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 2001, Section 70, which relates to paternity; authorizing genetic testing for certain actions; providing for vacating certain orders; providing for prospective operation of certain orders; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, 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 1-311.3 of Title 63 of the Oklahoma Statutes. A statement acknowledging paternity shall have the same legal effect as an order of paternity entered in a court or administrative proceeding.

a. The statement may be rescinded by the mother or acknowledging father within the earlier of:

- (1) sixty (60) days after the statement is signed by filing a signed rescission of affidavit acknowledging paternity form with the Office of the State Registrar of Vital Statistics, or
- (2) the date of an administrative or judicial proceeding relating to the child, including but

not limited to a proceeding to establish a support order, in which the signatory is a party. After the sixty-day period referred to in division (1) of this subparagraph, a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger. Legal responsibilities, including but not limited to child support obligations, of any signatory arising from the acknowledgment shall not be suspended during the challenge, except for good cause shown. This subparagraph shall not be interpreted to authorize the rescission of an acknowledgement of paternity if such rescission would be prohibited under applicable federal law.

- b. (1) If the mother was married at the time of conception or birth, and her husband is not the natural father of the child, the husband may sign a husband's denial of paternity form, which must be filed along with the affidavit acknowledging paternity.
- (2) The rescission of affidavit acknowledging paternity and the husband's denial of paternity forms shall be prescribed by the Department of Human Services and made available at the same locations as the affidavit acknowledging paternity provided for in Section 1-311.3 of Title 63 of the Oklahoma Statutes;

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

3. District or administrative court order; or

4. As otherwise provided by law.

C. 1. If the person signing the acknowledgment of paternity is determined in an administrative or judicial proceeding not to be the father of the child, on the basis of fraud, duress or material mistake of fact pursuant to subsection B of this section, the Department of Human Services, the Office of Administrative Hearings: Child Support, or the court shall dismiss any pending court or administrative collection proceedings against the father and the father will be released from any court-ordered or Department-ordered payments for the support and maintenance of the child.

2. The State Registrar of Vital Statistics shall remove the name of the person listed as the father from the birth certificate upon notice from the Department that such person has been judicially or administratively determined not to be the father. Once paternity is established, the State Registrar of Vital Statistics shall correct its records and amend the birth certificate to reflect the father's name.

D. Proceedings to establish paternity may be brought in the appropriate district court or through the Department. Proceedings may be brought by the mother, father, guardian, or custodian of the child, the Department, 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 enter an order providing for the support and maintenance of the child. The social security numbers of both parents and the child shall be included on the child support order summary form provided for in Section 120 of Title 43 of the Oklahoma Statutes which shall be filed with all orders establishing paternity. The district court may further make provision for custody and visitation based upon the best interests of the child.

1. When a default order establishing paternity is filed and genetic testing of the child at issue has not been administered as part of the proceeding, any party to the proceeding may request

genetic testing within six (6) months of the filing of the paternity order.

2. If the court finds by clear and convincing evidence that the genetic tests demonstrate that the established father is not the biological father of the child, the court shall vacate the determination of paternity and terminate the obligation of that party to pay future child support. An order vacating the determination of paternity operates prospectively only and does not alter the obligation to pay child support arrearages.

E. 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).

SECTION 2. 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.

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