

By: Dorman of the House
and
Cain of the Senate

An Act relating to children; amending 10 O.S. 2001, Section 3, which relates to paternity; clarifying certain term; prohibiting termination of parental rights under certain circumstances; amending 10 O.S. 2001, Section 90.4, which relates to children born out of wedlock; providing that a father present certain evidence prior to hearing; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 3, is amended to read as follows:

Section 3. A. The presumption of paternity created pursuant to Section 2 of this title may be legally disputed only by the husband or wife, the putative father or their descendants. Paternity may be established pursuant to Section 70 of this title.

B. If a child is born during the course of the marriage and is reared by the husband and wife as a member of their family without legally disputing the ~~child's~~ legitimacy of the child for a period of at least two (2) years, the presumption cannot be legally disputed by anyone.

C. If there is no legal dispute about the legitimacy of the child before the child reaches two (2) years of age, the parental rights of the father, as established by subsection B of this section, shall not be terminated without his consent.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 90.4, is amended to read as follows:

Section 90.4 A. At any time after a determination of paternity, the mother, father, custodian or guardian of the child

may file a motion requesting the court to order that the surname of the child be changed to the surname of its father. The court shall thereafter set a hearing on said motion. Notice of the filing of the motion and the date of the hearing shall be served by process on all parties.

B. Before the hearing may proceed to determine the best interests of a child and the entering of any subsequent order, a father that filed a motion pursuant to subsection A of this section shall present evidence that all child support obligations, if any, have been satisfied. If, after said hearing, the judge finds that it is in the best interest of the child to bear the paternal surname, the court shall enter an order to that effect which shall include findings of fact as to each issue raised by the parties.

C. The practice, pleading, and proceedings as set forth in this section shall conform to the applicable rules prescribed by the Code of Civil Procedure.

SECTION 3. This act shall become effective November 1, 2005.

Passed the House of Representatives the 7th day of March, 2005.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2005.

Presiding Officer of the Senate