

3 Senate Bill No. 1923

4 SENATE BILL NO. 1923 - By: LAMB of the Senate and SULLIVAN of the
5 House.

6 An Act relating to children; amending Section 2, Chapter
7 198, O.S.L. 2004, as amended by Section 1, Chapter 121,
8 O.S.L. 2005, Section 40, Chapter 116, O.S.L. 2006 and
9 Section 46, Chapter 116, O.S.L. 2006 (10 O.S. Supp. 2007,
10 Sections 7003-8.8, 7700-607 and 7700-621), which relate to
11 paternity proceedings and genetic testing; updating
12 statutory references; allowing certain proceedings under
13 specified circumstances; stating requirements for certain
14 order; modifying certain notice requirement; amending 12
15 O.S. 2001, Section 95, as last amended by Section 1, Chapter
16 159, O.S.L. 2005 (12 O.S. Supp. 2007, Section 95), which
17 relates to limitation of actions; modifies limitation for an
18 action to establish paternity; amending 43 O.S. 2001,
19 Section 109.2, which relates to paternity determination;
20 modifying statutory reference; repealing 10 O.S. 2001,
21 Section 84, which relates to liability of father for
22 expenses of mother; and providing an effective date.

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

24 SECTION 1. AMENDATORY Section 2, Chapter 198, O.S.L.
25 2004, as amended by Section 1, Chapter 121, O.S.L. 2005 (10 O.S.
26 Supp. 2007, Section 7003-8.8), is amended to read as follows:

27 Section 7003-8.8 A. 1. When paternity of an alleged or
28 adjudicated deprived child is at issue, the court, within six (6)
29 months after the filing of a deprived petition, shall either
30 establish paternity or defer the issue of paternity establishment to
31 the appropriate administrative or district court for any child for

1 whom paternity has not been legally established according to Section
2 ~~70~~ 7700-101 et seq. of this title.

3 2. When paternity is an issue, an alleged father and mother of
4 the child named in a deprived petition shall be given notice in the
5 petition and summons that paternity may be established in a deprived
6 action. The Oklahoma Department of Human Services Child Support
7 Enforcement Division shall proceed with paternity establishment for
8 any case deferred to the administrative or other district court
9 division under this subsection.

10 3. After the establishment of paternity, the court shall
11 address the issue of current child support pursuant to subsection B
12 of this section. In addition, the court may:

- 13 a. order the father to pay child support for past months
14 when no child support order was in effect according to
15 the provisions of Section 83 of this title, or
16 b. reserve or refer the issue of prior support to the
17 Oklahoma Department of Human Services Child Support
18 Enforcement Division.

19 4. The order establishing paternity shall be filed as a
20 separate document and shall not be confidential. The court clerk of
21 the district court where the child support order has been filed
22 shall provide, upon request, a copy of the order establishing
23 paternity to a representative of the Oklahoma Department of Human

1 Services Child Support Enforcement Division. A court order for the
2 release of the order establishing paternity or other information
3 contained in the court record pertaining to paternity and child
4 support shall not be required. The order may be captioned with a
5 different case style in order to establish and enforce a child
6 support order in an action other than the deprived proceeding.

7 B. 1. Each parent of any child named in a deprived petition
8 shall be given notice in the petition and summons that child support
9 may be ordered or modified in the deprived action.

10 2. Within six (6) months after the filing of a deprived
11 petition, the court shall either address the issue of child support
12 or defer the issue of establishment or enforcement of child support
13 to the appropriate administrative or district court. The Oklahoma
14 Department of Human Services Child Support Enforcement Division
15 shall proceed with the establishment or enforcement of child support
16 orders for any case deferred to the administrative or other district
17 court division under this subsection.

18 3. a. If there is an existing order for child support, the
19 existing order shall remain in effect unless the court
20 finds the existing order is not in the best interests
21 of the child or children involved.

22 b. The court shall use the child support guidelines as
23 provided for in Sections 118 and 119 of Title 43 of

1 the Oklahoma Statutes in determining the amount each
2 parent is to pay for care and maintenance of a child
3 and issue an order describing the finding of the
4 court.

5 c. The court may deviate from the child support
6 guidelines when it is determined necessary in order
7 for the parent to meet the obligations of a court-
8 imposed individual treatment and service plan or for
9 other reasons as the court deems appropriate. If the
10 court deviates from the amount of child support
11 indicated by the child support guidelines, the court
12 shall make specific findings of fact supporting such
13 action.

14 d. Each parent shall be individually ordered to pay his
15 or her percentage of the total monthly child support
16 obligation including parents who reside together.

17 e. The court shall order the parent to provide medical
18 insurance whenever the parent has insurance available
19 through employment or other group plan, regardless of
20 whether insurance is available at the time the order
21 is entered.

- 1 f. The child support order shall contain an immediate
2 income assignment provision pursuant to Section 115 of
3 Title 43 of the Oklahoma Statutes.
- 4 g. A child support computation form as provided for in
5 Section 120 of Title 43 of the Oklahoma Statutes shall
6 be signed by the judge and incorporated as a part of
7 the child support order.
- 8 h. (1) A standard child support order form shall be used
9 in the deprived action. The form shall be
10 prescribed by the Oklahoma Department of Human
11 Services Child Support Enforcement Division and
12 shall be published by the Administrative Office
13 of the Courts.
- 14 (2) The child support order shall be filed as a
15 separate document and shall not be confidential.
- 16 (3) The court clerk of the district court where the
17 child support order has been filed shall provide,
18 upon request, a copy of the support order to a
19 representative of the Oklahoma Department of
20 Human Services Child Support Enforcement
21 Division. A court order for the release of the
22 child support order or other information

1 contained in the court record pertaining to child
2 support shall not be required.

3 (4) The order may be captioned with a different case
4 style in order to enforce the child support order
5 in an action other than the deprived proceeding.

6 i. The child support order may be modified upon a
7 material change in circumstances.

8 j. The child support order may be enforced by any method
9 allowed by law.

10 k. After a deprived action is dismissed, the most recent
11 child support order entered in the deprived action
12 shall remain in full force and effect, unless the
13 judge presiding over the deprived action orders
14 otherwise. If there was no prior administrative or
15 district court case, the deprived action child support
16 order shall be docketed and filed in a new district
17 court family division action and enforced for current
18 child support and arrearages. If the judge presiding
19 over the deprived action modified a preexisting child
20 support order or if there was an existing
21 administrative or district court case, the child
22 support order entered in the deprived action shall be
23 filed in the existing case and enforced for current

1 child support and arrearages. The child support order
2 may be modified after being docketed in district
3 court.

4 C. All child support payments shall be paid through the
5 Oklahoma Centralized Support Registry as provided for in Section 413
6 of Title 43 of the Oklahoma Statutes.

7 D. When a child's placement is changed from one parent or
8 caretaker to another pursuant to the Oklahoma Children's Code, the
9 change in placement shall transfer child support payments to the new
10 caretaker unless the caretaker is receiving foster care payments or
11 Temporary Assistance to Needy Families payments for the care of the
12 child. Child support payments to the caretaker shall terminate when
13 the child no longer resides with the caretaker.

14 E. The Department of Human Services shall promulgate rules
15 necessary to implement the provisions of this section.

16 SECTION 2. AMENDATORY Section 40, Chapter 116, O.S.L.
17 2006 (10 O.S. Supp. 2007, Section 7700-607), is amended to read as
18 follows:

19 Section 7700-607. A. Except as otherwise provided in
20 subsection B of this section, a proceeding brought by a presumed
21 father, the mother, or another individual to adjudicate the
22 parentage of a child having a presumed father shall be commenced not
23 later than two (2) years after the birth of the child.

1 B. A proceeding seeking to disprove the father-child
2 relationship between a child and the child's presumed father may be
3 maintained at any time in accordance with Section 7700-608 of this
4 title if the court, prior to an order disproving the father-child
5 relationship, determines that:

6 1. The presumed father and the mother of the child neither
7 cohabited nor engaged in sexual intercourse with each other during
8 the probable time of conception; and

9 2. The presumed father never openly held out the child as his
10 own.

11 C. A proceeding seeking to disprove the father-child
12 relationship between a child and the child's presumed or
13 acknowledged father may be maintained at any time if the court
14 determines that the biological father, presumed or acknowledged
15 father, and the mother agree to adjudicate the biological father's
16 parentage in accordance with Sections 7700-608 and 7700-636 of this
17 title. If the presumed or acknowledged father or mother is
18 unavailable, the court may proceed if it is determined that diligent
19 efforts have been made to locate the unavailable party and it would
20 not be prejudicial to the best interest of the child to proceed
21 without that party. In a proceeding under this section, the court
22 shall enter an order either confirming the existing father-child
23 relationship or adjudicating the biological father as the parent of

1 the child. A final order under this section shall not leave the
2 child without an acknowledged or adjudicated father.

3 SECTION 3. AMENDATORY Section 46, Chapter 116, O.S.L.
4 2006 (10 O.S. Supp. 2007, Section 7700-621), is amended to read as
5 follows:

6 Section 7700-621. A. Except as otherwise provided in
7 subsection C of this section, a record of a genetic-testing expert
8 is admissible as evidence of the truth of the facts asserted in the
9 report unless a party objects to its admission within fourteen (14)
10 days after its ~~receipt by the objecting party~~ mailing and cites
11 specific grounds for exclusion. The admissibility of the report is
12 not affected by whether the testing was performed:

13 1. Voluntarily or pursuant to an order of the court or the
14 Department of Human Services; or

15 2. Before or after the commencement of the proceeding.

16 B. A party objecting to the results of genetic testing may call
17 one or more genetic-testing experts to testify in person or by
18 telephone, videoconference, deposition, or another method approved
19 by the court. Unless otherwise ordered by the court, the party
20 offering the testimony bears the expense for the expert testifying.

21 C. If a child has a presumed, acknowledged, or adjudicated
22 father, the results of genetic testing are inadmissible to

1 adjudicate parentage unless performed pursuant to an order of the
2 court under Sections ~~24~~ 7700-502 and ~~41~~ 7700-608 of this ~~act~~ title.

3 D. Copies of bills for genetic testing and for prenatal and
4 postnatal health care for the mother and child which are furnished
5 to the adverse party not less than ten (10) days before the date of
6 a hearing are admissible to establish:

- 7 1. The amount of the charges billed; and
- 8 2. That the charges were reasonable, necessary, and customary.

9 SECTION 4. AMENDATORY 12 O.S. 2001, Section 95, as last
10 amended by Section 1, Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2007,
11 Section 95), is amended to read as follows:

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

- 15 1. Within five (5) years: An action upon any contract,
16 agreement, or promise in writing;
- 17 2. Within three (3) years: An action upon a contract express
18 or implied not in writing; an action upon a liability created by
19 statute other than a forfeiture or penalty; and an action on a
20 foreign judgment;
- 21 3. Within two (2) years: An action for trespass upon real
22 property; an action for taking, detaining, or injuring personal
23 property, including actions for the specific recovery of personal

1 property; an action for injury to the rights of another, not arising
2 on contract, and not hereinafter enumerated; an action for relief on
3 the ground of fraud - the cause of action in such case shall not be
4 deemed to have accrued until the discovery of the fraud;

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

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

15 6. An action based on intentional conduct brought by any person
16 for recovery of damages for injury suffered as a result of childhood
17 sexual abuse incidents or exploitation as defined by Section 7102 of
18 Title 10 of the Oklahoma Statutes or incest can only be brought
19 within the latter of the following periods:

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

22 b. within two (2) years of the time the victim discovered
23 or reasonably should have discovered that the injury

1 or condition was caused by the act or that the act
2 caused the injury for which the claim is brought.
3 Provided, however, that the time limit for commencement of an
4 action pursuant to this paragraph is tolled for a child until the
5 child reaches the age of eighteen (18) years or until five (5) years
6 after the perpetrator is released from the custody of a state,
7 federal or local correctional facility or jail, whichever is later.
8 No action may be brought against the alleged perpetrator or the
9 estate of the alleged perpetrator after the death of such alleged
10 perpetrator, unless the perpetrator was convicted of a crime of
11 sexual abuse involving the claimant. An action pursuant to this
12 paragraph must be based upon objective verifiable evidence in order
13 for the victim to recover damages for injuries suffered by reason of
14 such sexual abuse, exploitation, or incest. The evidence should
15 include both proof that the victim had psychologically repressed the
16 memory of the facts upon which the claim was predicated and that
17 there was corroborating evidence that the sexual abuse,
18 exploitation, or incest actually occurred. The victim need not
19 establish which act in a series of continuing sexual abuse
20 incidents, exploitation incidents, or incest caused the injury
21 complained of, but may compute the date of discovery from the date
22 of discovery of the last act by the same perpetrator which is part
23 of a common scheme or plan of sexual abuse, exploitation, or incest.

1 Provided further, any action based on intentional conduct specified
2 in paragraph 7 of this section must be commenced within twenty (20)
3 years of the victim reaching the age of eighteen (18);

4 7. An action based on intentional conduct brought by any person
5 for recovery of damages for injury suffered as a result of criminal
6 actions, as defined by the Oklahoma Statutes, may be brought against
7 any person incarcerated or under the supervision of a state, federal
8 or local correctional facility on or after November 1, 2003:

9 a. at any time during the incarceration of the offender
10 for the offense on which the action is based, or

11 b. within five (5) years after the perpetrator is
12 released from the custody of a state, federal or local
13 correctional facility, if the defendant was serving
14 time for the offense on which the action is based;

15 8. An action to establish paternity and to enforce support
16 obligations can be brought any time before the child reaches the age
17 of eighteen (18);

18 9. An action to establish paternity can be brought by a child
19 ~~if commenced within one (1) year after the child reaches the age of~~
20 ~~eighteen (18)~~ in accordance with Section 7700-606 of Title 10 of the
21 Oklahoma Statutes;

22 10. Court-ordered child support is owed until it is paid in
23 full and it is not subject to a statute of limitations;

1 11. All actions filed by an inmate or by a person based upon
2 facts that occurred while the person was an inmate in the custody of
3 one of the following:

4 a. the State of Oklahoma,

5 b. a contractor of the State of Oklahoma, or

6 c. a political subdivision of the State of Oklahoma,

7 to include, but not be limited to, the revocation of earned credits
8 and claims for injury to the rights of another, shall be commenced
9 within one (1) year after the cause of action shall have accrued;
10 and

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

14 B. Collection of debts owed by inmates who have received damage
15 awards pursuant to Section 566.1 of Title 57 of the Oklahoma
16 Statutes shall be governed by the time limitations imposed by that
17 section.

18 SECTION 5. AMENDATORY 43 O.S. 2001, Section 109.2, is
19 amended to read as follows:

20 Section 109.2 Except as otherwise provided by ~~Section 3 of~~
21 ~~Title 10 of the Oklahoma Statutes~~ Section 7700-607 of Title 10 of
22 the Oklahoma Statutes, in any action concerning the custody of a
23 minor unmarried child or the determination of child support, the

1 court may determine if the parties to the action are the parents of
2 the children. If the parties to the action are the parents of the
3 children, the court may determine which party should have custody of
4 said children, may award child support to the parent to whom it
5 awards custody, and may make an appropriate order for payment of
6 costs and attorney's fees.

7 SECTION 6. REPEALER 10 O.S. 2001, Section 84, is hereby
8 repealed.

9 SECTION 7. This act shall become effective November 1, 2008.

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-19-08 - DO
11 PASS, As Coauthored.