

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1923

By: Lamb

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5  
6 AS INTRODUCED

7 An Act relating to children; amending Section 2,  
8 Chapter 198, O.S.L. 2004, as amended by Section 1,  
9 Chapter 121, O.S.L. 2005, Section 40, Chapter 116,  
10 O.S.L. 2006 and Section 46, Chapter 116, O.S.L. 2006  
11 (10 O.S. Supp. 2007, Sections 7003-8.8, 7700-607 and  
12 7700-621), which relate to paternity proceedings and  
13 genetic testing; updating statutory references;  
14 allowing certain proceedings under specified  
15 circumstances; stating requirements for certain  
16 order; modifying certain notice requirement; amending  
17 12 O.S. 2001, Section 95, as last amended by Section  
18 1, Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2007,  
19 Section 95), which relates to limitation of actions;  
20 modifies limitation for an action to establish  
21 paternity; amending 43 O.S. 2001, Section 109.2,  
22 which relates to paternity determination; modifying  
23 statutory reference; repealing 10 O.S. 2001, Section  
24 84, which relates to liability of father for expenses  
of mother; and providing an effective date.

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

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

Section 7003-8.8 A. 1. When paternity of an alleged or  
adjudicated deprived child is at issue, the court, within six (6)

1 months after the filing of a deprived petition, shall either  
2 establish paternity or defer the issue of paternity establishment to  
3 the appropriate administrative or district court for any child for  
4 whom paternity has not been legally established according to Section  
5 ~~70~~ 7700-101 et seq. of this title.

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

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

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

22       4. The order establishing paternity shall be filed as a  
23 separate document and shall not be confidential. The court clerk of  
24 the district court where the child support order has been filed

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

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

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

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

24

1           b.    The court shall use the child support guidelines as  
2               provided for in Sections 118 and 119 of Title 43 of  
3               the Oklahoma Statutes in determining the amount each  
4               parent is to pay for care and maintenance of a child  
5               and issue an order describing the finding of the  
6               court.

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

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

19          e.    The court shall order the parent to provide medical  
20               insurance whenever the parent has insurance available  
21               through employment or other group plan, regardless of  
22               whether insurance is available at the time the order  
23               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  
23 contained in the court record pertaining to child  
24 support shall not be required.

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

4 i. The child support order may be modified upon a  
5 material change in circumstances.

6 j. The child support order may be enforced by any method  
7 allowed by law.

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

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

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

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

13 SECTION 2. AMENDATORY Section 40, Chapter 116, O.S.L.  
14 2006 (10 O.S. Supp. 2007, Section 7700-607), is amended to read as  
15 follows:

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

21 B. A proceeding seeking to disprove the father-child  
22 relationship between a child and the child's presumed father may be  
23 maintained at any time in accordance with Section 7700-608 of this  
24

1 title if the court, prior to an order disproving the father-child  
2 relationship, determines that:

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

6 2. The presumed father never openly held out the child as his  
7 own.

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

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1 SECTION 3. AMENDATORY Section 46, Chapter 116, O.S.L.  
2 2006 (10 O.S. Supp. 2007, Section 7700-621), is amended to read as  
3 follows:

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

11 1. Voluntarily or pursuant to an order of the court or the  
12 Department of Human Services; or

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

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

19 C. If a child has a presumed, acknowledged, or adjudicated  
20 father, the results of genetic testing are inadmissible to  
21 adjudicate parentage unless performed pursuant to an order of the  
22 court under Sections ~~24~~ 7700-502 and ~~41~~ 7700-608 of this ~~act~~ title.

23 D. Copies of bills for genetic testing and for prenatal and  
24 postnatal health care for the mother and child which are furnished

1 to the adverse party not less than ten (10) days before the date of  
2 a hearing are admissible to establish:

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

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

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

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

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

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

24

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

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

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

- 16           a. within two (2) years of the act alleged to have caused  
17               the injury or condition, or
- 18           b. within two (2) years of the time the victim discovered  
19               or reasonably should have discovered that the injury  
20               or condition was caused by the act or that the act  
21               caused the injury for which the claim is brought.

22       Provided, however, that the time limit for commencement of an  
23 action pursuant to this paragraph is tolled for a child until the  
24 child reaches the age of eighteen (18) years or until five (5) years

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

22 7. An action based on intentional conduct brought by any person  
23 for recovery of damages for injury suffered as a result of criminal  
24 actions, as defined by the Oklahoma Statutes, may be brought against

1 any person incarcerated or under the supervision of a state, federal  
2 or local correctional facility on or after November 1, 2003:

- 3 a. at any time during the incarceration of the offender  
4 for the offense on which the action is based, or
- 5 b. within five (5) years after the perpetrator is  
6 released from the custody of a state, federal or local  
7 correctional facility, if the defendant was serving  
8 time for the offense on which the action is based;

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

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

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

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

- 21 a. the State of Oklahoma,
- 22 b. a contractor of the State of Oklahoma, or
- 23 c. a political subdivision of the State of Oklahoma,

24

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

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

8 B. Collection of debts owed by inmates who have received damage  
9 awards pursuant to Section 566.1 of Title 57 of the Oklahoma  
10 Statutes shall be governed by the time limitations imposed by that  
11 section.

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

14 Section 109.2 Except as otherwise provided by ~~Section 3 of~~  
15 ~~Title 10 of the Oklahoma Statutes~~ Section 7700-607 of Title 10 of  
16 the Oklahoma Statutes, in any action concerning the custody of a  
17 minor unmarried child or the determination of child support, the  
18 court may determine if the parties to the action are the parents of  
19 the children. If the parties to the action are the parents of the  
20 children, the court may determine which party should have custody of  
21 said children, may award child support to the parent to whom it  
22 awards custody, and may make an appropriate order for payment of  
23 costs and attorney's fees.

24

1 SECTION 6. REPEALER 10 O.S. 2001, Section 84, is hereby  
2 repealed.

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