

1 **SENATE FLOOR VERSION**

February 18, 2014

2 **AS AMENDED**

3 SENATE BILL NO. 1432

By: Newberry of the Senate

4 and

5 Peterson of the House

6
7
8 **[child support - liability of father - certain**
9 **support - certain notice - genetic testing -**
10 **effective date]**

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 10 O.S. 2011, Section 83, as
14 amended by Section 1, Chapter 253, O.S.L. 2012 (10 O.S. Supp. 2013,
15 Section 83), is amended to read as follows:

16 Section 83. A. ~~An~~ Both the mother of a child born out of
17 wedlock and an individual who has been legally determined to be the
18 father of a child pursuant to the Uniform Parentage Act, or an
19 individual who has been judicially or administratively determined to
20 be the father of a child is by acknowledgment or by judicial or
21 administrative order are each liable for the support and education
22 of the child ~~to the same extent as the father of a child born in~~
23 ~~wedlock.~~

1 B. 1. An action to establish or enforce the obligation of
2 support and education may be brought by ~~the mother or custodian~~
3 either parent, or other custodial person, or the guardian of the
4 child, by the public authority chargeable with the support of the
5 child, or by the child.

6 2. ~~If paternity has been legally determined pursuant to the~~
7 ~~Uniform Parentage Act, an~~ An action to enforce this obligation of
8 support may be brought within the time period specified by paragraph
9 8 of subsection A of Section 95 of Title 12 of the Oklahoma
10 Statutes.

11 3. ~~The father's obligation to support is terminated if the~~
12 ~~child is adopted~~ If the parental rights of a mother or father are
13 terminated in an adoption proceeding, the obligation to support the
14 child ceases for the parent whose rights were terminated. Child
15 support arrearages are not affected by the adoption of the child.

16 4. The court may order the payments made to ~~the mother or~~
17 ~~custodian~~ either parent, other custodial person, or the guardian of
18 the child, or to some other person, corporation or agency to
19 administer under the supervision of the court.

20 C. An individual who has been legally determined to be the
21 father of a child pursuant to the Uniform Parentage Act shall be
22 ordered to pay all or a portion of the costs of the birth and the
23 reasonable expenses of providing for the child, provided that
24 liability for support provided before the determination of paternity

1 shall be imposed for ~~five (5)~~ two (2) years preceding the filing of
2 the action. The mother shall be liable for the reasonable expenses
3 of providing for the child to the same extent as the father and
4 subject to the same limitation of liability for any time she does
5 not have custody of the child prior to the establishment of
6 paternity or an order for support.

7 D. The amount of child support and other support including
8 amounts provided for in subsection C of this section shall be
9 ordered and reviewed in accordance with the child support guidelines
10 provided in Section 118 of Title 43 of the Oklahoma Statutes.
11 Interest shall accrue on the support amounts pursuant to Section 114
12 of Title 43 of the Oklahoma Statutes.

13 E. If both the mother and the father agree to change the
14 surname of the child to that of the father, the court may order the
15 name changed. Upon receipt of an order changing the child's
16 surname, the State Department of Health, Division of Vital Records,
17 shall correct its records and amend the birth certificate to reflect
18 the name change.

19 SECTION 2. AMENDATORY 56 O.S. 2011, Section 238.1, as
20 amended by Section 4, Chapter 253, O.S.L. 2012 (56 O.S. Supp. 2013,
21 Section 238.1), is amended to read as follows:

22 Section 238.1. A. For the purposes of establishing the amount
23 of the debt which has accrued as provided for in Section 238 of this
24 title, ~~or~~ to establish an obligation for support in the absence of a

1 court order of support, or to establish a judgment for support
2 preceding the filing of the support action pursuant to Section 83 of
3 Title 10 of the Oklahoma Statutes, the Division may issue a notice
4 of a support ~~debt~~ obligation to establish current support and
5 support owed for past months in accordance with the child support
6 guidelines, Section 118 of Title 43 of the Oklahoma Statutes. The
7 notice of debt shall be served upon the obligor in the same manner
8 prescribed for the service of summons in a civil action. The notice
9 of ~~debt~~ obligation shall include:

10 1. A statement of the support debt accrued, as defined in
11 Section 237.7 of this title;

12 2. The amount of monthly child support required for the minor
13 child as determined by the child support guidelines, Section 118 of
14 Title 43 of the Oklahoma Statutes;

15 3. A statement that ~~the obligor~~ either or both parents shall be
16 required to ~~maintain health insurance for the child whenever the~~
17 ~~obligor has such insurance available through his or her employment~~
18 ~~or other group insurance plan~~ provide medical support for the child,
19 which may include health insurance, cash medical support, or a
20 combination of both, and pay the proportionate share of medical
21 expenses not reimbursed by insurance, as determined by the court;

22 4. A statement that the obligor shall be required to keep the
23 Division informed of the obligor's current address, the name and
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1 address of the obligor's current employer and access to health
2 insurance and other insurance policy information of the obligor;

3 5. A statement containing the name of the child and the name of
4 the custodian of the child;

5 6. A statement that the obligor may object to all or any part
6 of the notice of support debt at a hearing which will be held at a
7 given location on a date specified in the notice to show cause why
8 the obligor should not be determined liable for the support
9 requested in the notice and for any or all of the ~~debt~~ obligation
10 accrued or accruing, and the amount to be paid thereon; and

11 7. A statement that if the obligor fails to appear at the
12 hearing, the monthly support requested and the support debt shall be
13 made an administrative order subject to collection action and shall
14 be filed in the office of the court clerk in the county of residence
15 of the custodian of the child or, if the custodian resides out of
16 state, in the county of residence of the obligor or elsewhere as
17 provided in ~~this act~~ Section 231 et seq. of this title. The
18 administrative order shall be enforced in the same manner as an
19 order of the district court.

20 B. The Division may accept voluntary acknowledgments of support
21 liability and stipulated support amounts. The obligor shall be
22 informed, in the notice specified by this section, that the obligor
23 may make voluntary acknowledgments.

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1 C. The lump-sum judgment established for support owed prior to
2 the establishment of the current support order shall draw interest
3 pursuant to Section 114 of Title 43 of the Oklahoma Statutes.

4 SECTION 3. AMENDATORY 56 O.S. 2011, Section 238.6B, as
5 amended by Section 5, Chapter 253, O.S.L. 2012 (56 O.S. Supp. 2013,
6 Section 238.6B), is amended to read as follows:

7 Section 238.6B. A. The Department of Human Services may serve
8 a notice of paternity and support obligations on an individual
9 alleged to be the parent of a child for whom paternity has not been
10 judicially or administratively established. Venue for such action
11 shall be, at the option of the Department, in the county where the
12 mother, father or child resides. Service of the notice shall be in
13 the same manner as a summons in a civil action pursuant to Section
14 2004 of Title 12 of the Oklahoma Statutes. Both the mother of a
15 child born out of wedlock and an individual who has been legally
16 determined to be the father of a child by acknowledgement or by
17 judicial or administrative order are each liable for the support and
18 education of the child.

19 B. The notice shall be verified and have attached to it a copy
20 of any acknowledgment of paternity and shall state:

21 1. The name and date of birth of any minor children, along with
22 the name of the natural mother and custodian, if different than the
23 mother or ~~putative~~ alleged father;

1 2. The amount of child support and other support, including the
2 amounts ordered pursuant to paragraph 3 of this subsection, to be
3 ordered in accordance with the Child Support Guidelines provided in
4 Section 118 of Title 43 of the Oklahoma Statutes;

5 3. The amount of reimbursement for the costs of the birth and
6 the reasonable expenses of providing for said child which has
7 accrued or is accruing, provided that the liability for the above
8 costs shall be imposed for ~~five (5)~~ two (2) years preceding the
9 issuance of the notice pursuant to Section 83 of Title 10 of the
10 Oklahoma Statutes. The mother shall be liable for the reasonable
11 expenses of providing for the child to the same extent as the father
12 and subject to the same limitation of liability for any time she
13 does not have custody of the child prior to the establishment of
14 paternity or an order for support;

15 4. ~~That health insurance for the child whenever such insurance~~
16 ~~is available through employment or other group health insurance plan~~
17 ~~and that payment of proportionate share of any unreimbursed health~~
18 ~~costs shall be required~~ either or both parents shall be required to
19 provide medical support for the child, which may include health
20 insurance, cash medical support, or a combination of both, and pay a
21 proportionate share of medical expenses not reimbursed by insurance;

22 5. The amount of reimbursement requested for the costs of the
23 genetic test to determine paternity, if any;

1 6. That an immediate income assignment will be effectuated for
2 payment of current support and any judgments entered;

3 7. That in the absence of ~~an acknowledgment of paternity~~ a
4 legally established father pursuant to the Uniform Parentage Act, a
5 notice to appear and show cause shall be issued to the ~~putative~~
6 alleged father which directs the ~~putative~~ alleged father to appear
7 and show cause why the administrative judge should not determine him
8 to be the father of any such children, liable for the support
9 requested in the notice, for the costs accrued and accruing or the
10 amount to be paid thereon;

11 8. That if paternity is disputed and there is no ~~acknowledgment~~
12 ~~of paternity has been executed~~ legally established father under the
13 pursuant to the Uniform Parentage Act, the Administrative Law Judge
14 shall enter an order directing genetic tests to determine paternity
15 and advise the ~~putative~~ alleged father that if he fails to appear he
16 will be in default and an order will be entered against him. If the
17 putative father is not excluded, and the statistical probability of
18 paternity according to scientifically reliable genetic tests
19 including, but not limited to, blood tests is at least ninety-nine
20 percent (99%) and he is contesting the issue of paternity, he may
21 request the Department to remove the action to district court to
22 determine paternity. If the statistical probability of paternity is
23 ninety-nine percent (99%), and the father does not request the
24 Department to remove to district court within fourteen (14) days of

1 the Department mailing the genetic test or other test results,
2 determination of paternity shall become final for all intents and
3 purposes and may be overturned only by appeal to district court.
4 Any such request shall be in writing and served on the Department
5 personally or by registered or certified mail;

6 9. That if the ~~putative~~ alleged father fails to appear at the
7 genetic testing, show cause, or any subsequent hearing or if no
8 notice to appear for genetic testing was served and no hearing is
9 requested on or before twenty (20) days from the date of service,
10 the finding of paternity shall become final and a support order
11 entered. The order shall be docketed with the district court in the
12 county of residence of the custodian or the child. If neither the
13 custodian nor the child reside in the state, the order shall be
14 docketed in the county of residence of the noncustodial parent. The
15 support order shall be enforced in the same manner as an order of
16 the district court;

17 10. That at any time after paternity is determined, the
18 Department may set a hearing to determine the child support
19 obligation, if child support has not already been established.
20 Failure to appear at the hearing will result in a support order
21 being entered against the noncustodial parent; and

22 11. That if the mother and father have voluntarily signed an
23 acknowledgment of paternity pursuant to the Uniform Parentage Act,
24 the duly executed acknowledgment of paternity is considered a legal

1 finding of paternity, subject to the right of any signatory to
2 rescind the acknowledgment within the earlier of:

- 3 a. sixty (60) days, or
- 4 b. the date of an administrative or judicial proceeding
5 relating to the child, including but not limited to a
6 proceeding to establish a support order, in which the
7 signatory is a party.

8 After the sixty-day period referred to in subparagraph a of this
9 paragraph, a duly executed acknowledgment of paternity may be
10 challenged in court only in accordance with the Uniform Parentage
11 Act. The legal responsibilities, including but not limited to child
12 support obligations, of any signatory arising from the
13 acknowledgment may not be suspended during the challenge, except for
14 good cause shown.

15 This paragraph shall not be interpreted to authorize the
16 rescission of an acknowledgement of paternity if such rescission
17 would be prohibited under applicable federal law.

18 C. The Department may accept voluntary acknowledgments of
19 support liability and support amounts.

20 D. If the name of the father has not been entered on the
21 child's birth certificate, the Department of Human Services shall
22 notify the State Department of Health, Division of Vital Records who
23 shall enter the name of the father, and if known, the date of birth
24 and the place of birth of the father, on the birth certificate.

1 E. If child support services are being provided pursuant to
2 Section 237 of this title, prior to the issuance of the notice of
3 paternity and support obligation, a father who denies paternity and
4 ~~who has not signed an acknowledgment of paternity~~ is not a legally
5 established father under the Uniform Parentage Act may request that
6 a genetic test be administered. The request for testing shall be in
7 writing and served on the Department personally or by registered or
8 certified mail.

9 F. If a request for testing is made pursuant to subsection B or
10 E of this section, the Department shall arrange for the test and,
11 pursuant to rules promulgated by the Department, may advance the
12 cost of the testing. The Department shall mail a copy of the test
13 results by a certificate of mailing to the last-known address of the
14 father. If a request for genetic tests was made pursuant to
15 subsection E of this section, the Department shall mail the notice
16 of paternity and support obligations to the father by certificate of
17 mailing to the last-known address of the father.

18 G. If genetic testing pursuant to subsection B or E of this
19 section excludes a person from being ~~a natural parent~~ the biological
20 father of the child, the Department shall dismiss any pending court
21 or administrative collection proceedings against the person. The
22 State Department of Health, Division of Vital Records shall remove
23 the name of the person listed as the father from the birth
24 certificate, upon notice from the Department that the person has

1 | been excluded by genetic testing. Once paternity is established,
2 | the State Department of Health, Division of Vital Records shall
3 | correct its records and amend the birth certificate to reflect the
4 | name of the father.

5 | H. If both the custodian mother and the father agree to change
6 | the surname of the child to that of the father, the administrative
7 | law judge may order the name changed. Upon receipt of an order
8 | changing the child's surname, the State Department of Health,
9 | Division of Vital Records shall correct its records and amend the
10 | birth certificate to reflect the name change.

11 | I. All docketed administrative orders shall be modified and
12 | enforced in the same manner as an order of the district court.

13 | J. The lump-sum judgment established for support owed prior to
14 | the establishment of the current support order shall draw interest
15 | pursuant to Section 114 of Title 43 of the Oklahoma Statutes.

16 | SECTION 4. This act shall become effective November 1, 2014.

17 | COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
18 | February 18, 2014 - DO PASS AS AMENDED

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