

CS for EHB 1366

THE STATE SENATE
Tuesday, March 25, 2003

Committee Substitute for
ENGROSSED

House Bill No. 1366

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1366 - By: JONES
of the House and LITTLEFIELD of the Senate.

An Act relating to public health and safety; amending 10
O.S. 2001, Section 70, as amended by Section 1, Chapter 314,
O.S.L. 2002 (10 O.S. Supp. 2002, Section 70), which relates
to paternity; modifying process and procedures; updating
language; amending 63 O.S. 2001, Sections 1-311.3 and 1-321,
which relate to birth certificates; requiring certain
affidavits to be filed with the Office of the State
Registrar of Vital Statistics; requiring certain information
to be given to biological father; making certain information
available to certain persons; updating language; requiring
certain training; requiring certain facilities to present
information to certain persons; providing for immunity;
requiring promulgation of rules; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 70, as
amended by Section 1, Chapter 314, O.S.L. 2002 (10 O.S. Supp. 2002,
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~~ An
affidavit acknowledging paternity of the father and mother pursuant
to Section 1-311.3 of Title 63 of the Oklahoma Statutes. A

1 ~~statement~~ An affidavit acknowledging paternity shall have the same
2 legal effect as an order of paternity entered in a court or
3 administrative proceeding.

4 a. The ~~statement~~ affidavit of paternity may be rescinded
5 by the mother or acknowledging father within the
6 earlier of:

7 (1) sixty (60) days after the ~~statement~~ affidavit is
8 signed by filing a signed rescission of affidavit
9 acknowledging paternity form with the Office of
10 the State Registrar of Vital Statistics, or

11 (2) the date of an administrative or judicial
12 proceeding relating to the child, including, but
13 not limited to, a proceeding to establish a
14 support order, in which the signatory is a party.

15 After the sixty-day period referred to in division (1)
16 of this subparagraph, a signed ~~voluntary~~
17 ~~acknowledgment of~~ affidavit acknowledging paternity
18 may be challenged in court only on the basis of fraud,
19 duress, or material mistake of fact, with the burden
20 of proof upon the challenger. Legal responsibilities, ~~including,~~
21 including, but not limited to, a child support
22 obligations, of any signatory arising from the

1 acknowledgment shall not be suspended during the
2 challenge, except for good cause shown.

3 This subparagraph shall not be interpreted to
4 authorize the rescission of an acknowledgement of
5 paternity if such rescission would be prohibited under
6 applicable federal law.

7 b. (1) If the mother was married at the time of
8 conception or birth, and her husband is not the
9 natural father of the child, the husband may sign
10 a husband's denial of paternity form, which must
11 be filed along with the affidavit acknowledging
12 paternity.

13 (2) The rescission of affidavit acknowledging
14 paternity and the husband's denial of paternity
15 forms shall be prescribed by the Department of
16 Human Services and made available at the same
17 locations as the affidavit acknowledging
18 paternity provided for in Section 1-311.3 of
19 Title 63 of the Oklahoma Statutes;

20 2. Scientifically reliable genetic tests~~7~~, including~~7~~ but not
21 limited to~~7~~ blood tests;

22 3. District or administrative court order; or

23 4. ~~As otherwise provided by~~ Other related provisions of law.

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

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

18 D. 1. Proceedings to establish paternity may be brought in the
19 appropriate district court or through the Department. Proceedings
20 may be brought by the mother, father, guardian, or custodian of the
21 child, the Department, the district attorney, a public or private
22 agency or authority chargeable with the support of the child, or by
23 the child.

1 2. The court, after determining paternity in a civil action,
2 shall enter an order providing for the support and maintenance of
3 the child.

4 3. The social security numbers of both parents and the child
5 shall be included on the summary of support order form provided for
6 in Section 120 of Title 43 of the Oklahoma Statutes which shall be
7 submitted to the Central Case Registry as provided for in Section
8 112A of Title 43 of the Oklahoma Statutes.

9 4. The district court may further make provision for custody
10 and visitation based upon the best interests of the child.

11 E. An action to establish paternity shall be available to a
12 child if commenced within one (1) year after the child reaches the
13 age of eighteen (18).

14 SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-311.3, is
15 amended to read as follows:

16 Section 1-311.3 A. Unless an adoption decree has been
17 presented, and consent to adoption has been given as otherwise
18 provided by law, upon the birth of a child to an unmarried woman,
19 the person required by Section 1-311 of this title to prepare and
20 file a birth certificate shall:

21 1. Provide written materials and an oral, audio, or video
22 presentation to the child's mother and ~~or~~ natural father, if
23 present, including, but not limited to, an affidavit acknowledging

1 paternity on a form prescribed by the Department of Human Services.
2 The completed affidavit shall be filed with the ~~local registrar~~
3 Office of the State Registrar of Vital Statistics. The affidavit
4 shall contain:

- 5 a. a statement by the mother consenting to the assertion
- 6 of paternity and stating the name of the father,
- 7 b. a statement by the father that he is the natural
- 8 father of the child,
- 9 c. the social security numbers of both parents, and
- 10 d. other information as the Secretary of Health and Human
- 11 Services may require;

12 2. Provide written information, furnished by the Department of
13 Human Services, along with an oral, audio, or video presentation, to
14 the mother and the natural father, if he is present:

- 15 a. explaining that the completed, ~~notarized~~ affidavit
- 16 shall be filed with the ~~local registrar~~ Office of the
- 17 State Registrar of Vital Statistics,
- 18 b. regarding the benefits of having ~~her~~ the child's
- 19 paternity established and ~~of~~ the availability of
- 20 paternity establishment services, including, but not
- 21 limited to, a request for support enforcement
- 22 services, and

1 c. explaining the implications of signing the affidavit
2 acknowledging paternity including, but not limited to,
3 parental rights and responsibilities; and

4 3. Provide the original affidavit acknowledging paternity to
5 the Office of the State Registrar of Vital Statistics. Copies of
6 the original affidavit acknowledging paternity shall be provided to
7 the Department of Human Services Child Support Enforcement Division
8 and to the mother and acknowledged father of the child. The
9 Department of Human Services shall provide access to the affidavits
10 acknowledging paternity via electronic means to the paternity
11 registry created pursuant to Section 7506-1.1 of Title 10 of the
12 Oklahoma Statutes.

13 B. The Department of Human Services shall make the affidavits
14 acknowledging paternity, the rescission of affidavit acknowledging
15 paternity, ~~and~~ the husband's denial of paternity, and the adult
16 child's consent forms available at each county office of the
17 Department and at the Office of the State Registrar of Vital
18 Statistics ~~and at the office of each local registrar.~~

19 C. All hospitals and birthing centers in this state shall have
20 at least one staff member trained annually in the Voluntary
21 Paternity Acknowledgment process. Such training shall be provided
22 to hospitals and birthing centers by the Department of Human
23 Services.

1 D. All hospitals and birthing centers shall present to the
2 unmarried parents of a child born at the hospital or birthing center
3 a form to be signed by the parents documenting that they have been
4 given an opportunity to acknowledge paternity. The Department of
5 Human Services shall develop the form and shall provide copies of
6 the form to all hospitals and birthing centers in this state.
7 Hospitals and birthing centers shall maintain the signed form for
8 not less than three (3) years.

9 E. Hospitals and birthing centers shall be immune from civil
10 liability to an individual or agency for acting in accordance with
11 the provisions of this section.

12 F. The Commission for Human Services shall promulgate rules as
13 necessary to implement the provisions of this section.

14 G. Upon receipt by the State Registrar of Vital Statistics of a
15 certified copy of an order or decree of adoption, the State
16 Registrar shall prepare a supplementary birth certificate as
17 directed by Section 7505-6.6 of Title 10 of the Oklahoma Statutes
18 regardless of whether an affidavit acknowledging paternity has been
19 prepared or filed with the Office of the State Registrar of Vital
20 Statistics pursuant to this section.

21 SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-321, is
22 amended to read as follows:

1 Section 1-321. ~~(a)~~ A. A certificate or record registered ~~under~~
2 pursuant to the provisions of this article may be amended only in
3 accordance with the provisions of this article and ~~regulations~~
4 ~~thereunder adopted~~ rules promulgated by the State Board of Health
5 pursuant thereto to protect the integrity and accuracy of vital
6 statistics records.

7 ~~(b)~~ A B. Except as otherwise provided in subsection D of this
8 section, a certificate that is amended ~~under~~ pursuant to the
9 provisions of this section shall be marked "amended", ~~except as~~
10 provided in subsection (d) of this section. The date of amendment
11 and a summary description of the evidence submitted in support of
12 the amendment shall be endorsed on or made a part of the record.
13 The Board shall prescribe by ~~regulation~~ rule the conditions under
14 which additions or minor corrections shall be made to birth
15 certificates within one (1) year after the date of birth without the
16 certificate being considered as amended.

17 ~~(c)~~ C. Upon receipt of a certified copy of a court order
18 changing the name of a person born in this state and upon request of
19 such person or ~~his~~ the parent, guardian, or legal representative of
20 such person, the State Commissioner of Health shall amend the
21 certificate of birth to reflect the new name.

22 ~~(d)~~ D. 1. When a child is born out of wedlock, the
23 Commissioner shall amend a certificate of birth to show paternity,

1 if paternity is not currently shown on the birth certificate, in the
2 following situations:

3 ~~(1) Upon~~

4 a. upon request and receipt of ~~a sworn acknowledgment of~~
5 an affidavit acknowledging paternity of a child born
6 out of wedlock signed by both parents, or

7 ~~(2) Upon~~

8 b. upon receipt of a certified copy of a court order
9 establishing paternity.

10 2. The Commissioner shall, also, change the surname of the
11 child on the certificate to the surname of the father upon:

12 a. receipt of a notarized written request signed by both
13 parents, or ~~upon~~

14 b. receipt of a certified copy of a court order directing
15 such name be changed. ~~Such~~

16 3. The certificate amended pursuant to this subsection shall
17 not be marked "amended".

18 SECTION 4. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

22 COMMITTEE REPORT BY: COMMITTEE ON HUMAN RESOURCES, dated 3-20-03 -
23 DO PASS, As Amended.