
DIGEST

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HB 841 Engrossed

2018 Regular Session

Billiot

Abstract: Provides for the filiation and birth certificate of a child when the husband is not the biological father of the child.

Present law (C.C. Arts. 185-190) provides that the husband of the mother is presumed to be the father of the child born during the marriage or within 300 days from the date of termination of the marriage and provides for the disavowal of paternity.

Proposed law (C.C. Art. 190.1) retains present law but provides that the husband or former husband of the mother is not presumed to be the father of the child if blood or tissue sampling indicates by a 99.9% threshold probability that the biological father is the father of the child and the parties execute a two-party acknowledgment regarding the paternity of the child. Proposed law further provides that the person acknowledging that he is the biological father of the child is presumed to be the father.

Proposed law provides a five-year preemptive period from the day of the birth of the child and a one-year preemptive period from the day of the death of the child for the execution of this acknowledgment.

Present law (R.S. 40:34.2) provides for the contents of the birth certificate of a child.

Proposed law retains present law but provides an exception for the surname of a child born to a married mother if the parties have executed a two-party acknowledgment.

Present law (R.S. 40:34.5) provides for the name of the father on the birth certificate of a child.

Proposed law retains present law but provides an exception for the information pertaining to the father of a child born to a married mother if blood or tissue sampling indicates by a 99.9% threshold probability that the biological father is the father of the child and the parties have executed a two-party acknowledgment.

Proposed law (R.S. 40:34.5.1) provides that the mother and the biological father may execute and submit a two-party acknowledgment of paternity together with blood and tissue test results and a copy of a certified letter providing 30 days notice of the intent to change the birth certificate. Proposed law then directs the state registrar to record the information on the birth certificate of the child.

Proposed law (R.S. 40:34.5.2) requires the La. Dept. of Health to develop a form for the two-party acknowledgment.

Present law (R.S. 46.4) provides for the amendment of a birth certificate of a child when there is a change of paternal filiation.

Proposed law retains present law and, notwithstanding C.C. Art. 196, further provides for the amendment of a birth certificate upon the execution and submission of a two-party acknowledgment together with blood and tissue test results and a copy of a certified letter providing 30 days notice of the intent to change the birth certificate. Proposed law then directs the state registrar to record the information on the birth certificate of the child.

Present law (R.S. 40:46.9) authorizes the amendment of a birth certificate of a child if the husband and the mother lived separate and apart for 180 days prior to conception and did not reconcile and the biological father is someone other than the husband of the mother.

Proposed law repeals present law.

(Amends R.S. 40:34.2(2)(a)(intro. para.), 34.5(A), and 46.4(A); Adds C.C. Art. 190.1 and R.S. 40:34.5.1 and 34.5.2; Repeals R.S. 40:46.9)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Add a technical amendment.
2. Add provision to specify the exception from C.C. Art. 196.