

2019 Regular Session

HOUSE BILL NO. 110

BY REPRESENTATIVE POPE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

VITAL STATS/BIRTH CERT: Provides relative to notice of information regarding paternity

1 AN ACT

2 To amend and reenact Civil Code Article 189 and R.S. 40:34.5(A), relative to paternity; to  
3 provide for notice of the inclusion of paternity information on birth certificates; to  
4 provide relative to prescription of an action to disavow paternity; to provide for  
5 written notice prior to the commencement of prescription; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Civil Code Article 189 is hereby amended and reenacted to read as  
9 follows:

10 Art. 189. Time limit for disavowal by the husband

11 The action for disavowal of paternity is subject to a liberative prescription of  
12 one year. This prescription commences to run from the day of the birth of the child,  
13 or the day the husband knew or should have known that he may not be the biological  
14 father of the child, whichever occurs later.

15 Nevertheless, if the husband lived separate and apart from the mother  
16 continuously during the ~~three hundred~~ one hundred eighty days immediately  
17 preceding the birth of the child, or if an action for divorce is pending or a judgment  
18 of divorce has been rendered at the time of the birth of the child, this prescription  
19 does not commence to run until the husband is notified in writing, by certified mail,  
20 that a party in interest has asserted that the husband is the father of the child.

1 Section 2. R.S. 40:34.5(A) is hereby amended and reenacted to read as follows:

2 §34.5. Original birth certificate; required contents; name of father

3 A.(1) If the child is born to a mother who either is married or was married  
4 within three hundred days prior to the birth of the child, the full name of the father  
5 shall be recorded in the same manner provided for the recordation of the surname of  
6 the child in R.S. 40:34.2(2)(a) and (c), subject to the requirements provided by  
7 Paragraph (A)(2) of this Subsection and unless otherwise provided by law.

8 (2) The full name of the husband or former husband shall be recorded as  
9 provided by Paragraph (A)(1) of this Section only after the husband or former  
10 husband, or if deceased, his successor, is notified in writing, by certified mail, that  
11 his name will be recorded as the father of the child on the birth certificate when any  
12 of the following occur:

13 (a) The child is born to a mother who was divorced from the former husband  
14 who is presumed to be the father of the child as provided by Civil Code Article 185  
15 or 186.

16 (b) The child is born to a mother who was living separate and apart from her  
17 husband continuously during the one hundred eighty days immediately preceding the  
18 birth of the child.

19 (c) An action for divorce is pending between the mother of the child and the  
20 husband at the time of the birth of the child.

21 \* \* \*

22 Section 3. The provisions of this Act shall apply retroactively to August 1, 2016.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 110 Original

2019 Regular Session

Pope

**Abstract:** Provides for written notice to a husband or former husband who is being named as the father of a child who is born when the father and mother are divorced, when the husband and wife are living separate and apart, or when an action for divorce is pending.

Present law provides that if a child is born to a mother who either is married or was married within 300 days prior to the birth of the child, the full name of the father shall be recorded on the birth certificate, unless otherwise provided by law.

Proposed law retains present law but provides that the full name of the husband or former husband shall be recorded as provided by present law only after the husband or former husband is notified in writing, by certified mail, that his name will be recorded as the father of the child when the child is born to a mother who was divorced, when the mother was living separate and apart from her husband within 180 days prior to the birth of the child, or when an action for divorce is pending at the time of the birth of the child.

Present law provides that the action for disavowal of paternity is subject to a liberative prescription of one year.

Present law provides that if the husband lived separate and apart from the mother continuously during the 300 days immediately preceding the birth of the child, prescription does not commence to run until the husband is notified in writing that a party has asserted that the husband is the father of the child.

Proposed law changes the time period from 300 days to 180 days and adds that if an action for divorce is pending or a judgment of divorce has been rendered at the time of the birth of the child, notice to the husband or former husband shall be provided by certified mail.

Proposed law provides for retroactive application to August 1, 2016.

(Amends C.C. Art. 189 and R.S. 40:34.5(A))