

GREEN SHEET REDIGEST

HB 147

2018 Regular Session

Dwight

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

FAMILY LAW: Provides for the filiation of a child.

DIGEST

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 the mother, presumed father, and biological father execute a three-party acknowledgment regarding the paternity of the child and a DNA test confirms the paternity of a third party. Proposed law further provides that the person acknowledging that he is the biological father of the child is presumed to be the father if confirmed by a DNA test and the parties execute a three-party acknowledgment of paternity. Further provides that a declaration or acknowledgment include that the husband or former husband presumed to be the father and the mother lived separate and apart continuously for at least 300 days prior to the birth of the child.

Proposed law provides a ten-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 three-party acknowledgment and a DNA test confirms the paternity of the biological father.

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 the parties have executed a three-party acknowledgment.

Proposed law (R.S. 40:34.5.1) provides that the husband or former husband presumed to be the father of a child, the mother, and the biological father may execute a three-party acknowledgment of paternity. 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 three-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 further provides for the amendment of a birth certificate upon the execution of a three-party acknowledgment. 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.

Proposed law further directs the La. State Law Institute to revise and prepare comments for the provisions of the proposed law.

Effective January 1, 2019.

(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 House Floor Amendments to the engrossed bill:

1. Add an effective date.
2. Require a DNA test confirming the biological father's paternity.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Changed effective date from governor signature to Jan. 1, 2019.
2. Added that declaration or acknowledgment include that husband or former husband presumed to the father and mother lived separate and apart continuously for at least 300 days prior to the birth of the child.
3. Directs La. Law Institute to revise and prepare comments for Act provisions.