

2018 Regular Session

HOUSE BILL NO. 147

BY REPRESENTATIVE DWIGHT

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact R.S. 40:34.2(2)(a)(introductory paragraph), 34.5(A), and 46.4(A), to
3 enact Civil Code Article 190.1 and R.S. 40:34.5.1 and 34.5.2, and to repeal R.S.
4 40:46.9, relative to filiation; to provide for presumptions of paternity; to provide for
5 the acknowledgment of a child; to provide relative to the birth certificate of the child;
6 to provide for a three-party acknowledgment of paternity; to provide for DNA
7 testing; to provide for the creation of a form; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:34.2(2)(a)(introductory paragraph), 34.5(A), and 46.4(A) are
10 hereby amended and reenacted and R.S. 40:34.5.1 and 34.5.2 are hereby enacted to read as
11 follows:

12 §34.2. Original birth certificate; required contents; name of child

13 * * *

14 (2) Surname.

15 (a) ~~Except~~ Unless otherwise provided by law and except as otherwise
16 provided in Subparagraph (c) of this Paragraph, if the child is born to a mother who
17 either is married or was married within three hundred days prior to the birth of the
18 child, the surname of the child shall be recorded in accordance with the following
19 requirements:

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Revision Comments - 2018

The "unless otherwise provided by law" clause in Subparagraph (2)(a) refers to the special rule in R.S. 40:34.5.1, which provides for the possibility of a different surname of the child when the mother, the husband or former husband of the mother, and the biological father of the child execute the three-party acknowledgment under that statute.

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

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

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Revision Comments-2018

The "unless otherwise provided by law" clause in Subsection A refers to the special rule in R.S. 40:34.5.1, which provides for the possibility of a different surname of the child when the mother, the husband or former husband of the mother, and the biological father of the child execute the three-party acknowledgment under that statute.

§34.5.1. Three-party acknowledgment of paternity; effect

Notwithstanding the provisions of R.S. 40:34.2(2)(a) and (c) and 34.5(A), the husband or former husband presumed to be the father of the child, the mother, and the biological father of the child may execute a three-party acknowledgment of paternity pursuant to Civil Code Article 190.1 on the form provided by the Louisiana Department of Health. Upon receipt of that form and a certified report of blood or tissue sampling which indicates by a ninety-nine and nine-tenths percentage point threshold probability that the biological father is the father of the child, the state registrar shall:

(1) For the father of the child, record the full name of the biological father.

(2) For the surname of the child, record the maiden name or surname of the mother, at her discretion. However, if the biological father and the mother agree, the state registrar shall record as the surname of the child the maiden name or surname of the mother, the surname of the biological father, or a combination of the surname of the biological father and the maiden name or surname of the mother.

1 (1) Strikethroughs: Strike through the surname of the child, the name of the
2 father of the child, and all other information pertaining to him, in particular, his age,
3 race, ethnicity, residence, birthplace, and social security number.

4 (2) Additions:

5 (a) If the judgment of disavowal does not trigger the presumption of
6 paternity established in the first sentence of the second paragraph of Civil Code
7 Article 186, the state registrar shall amend the birth certificate as follows: for the
8 surname of the child, enter the maiden name or surname of the mother of the child,
9 at her discretion.

10 (b) If the judgment of disavowal ~~action~~ triggers the presumption of paternity
11 established in the first sentence of the second paragraph of Civil Code Article 186,
12 the state registrar shall amend the birth certificate as follows:

13 (i) For the surname of the child, enter either that of the second husband of
14 the mother of the child or, if both he and the mother agree, her maiden name or
15 surname or a combination of his surname and her maiden name or surname.

16 (ii) For the name of the father of the child, his age, race, ethnicity, residence,
17 birthplace, and social security number, enter those of the second husband of the
18 mother.

19 (c) If the state registrar receives the three-party acknowledgment provided
20 in R.S. 40:34.5.1, the state registrar shall amend the birth certificate as follows:

21 (i) For the surname of the child, enter the maiden name or surname of the
22 mother, at her discretion. However, if the biological father and the mother agree, the
23 state registrar shall enter as the surname of the child the maiden name or surname of
24 the mother, the surname of the biological father, or a combination of the surname of
25 the biological father and the maiden name or surname of the mother.

26 (ii) For the name of the father of the child, his race, ethnicity, residence,
27 birthplace, and social security number, enter those of the biological father.

28 * * *

29 Section 2. Civil Code Article 190.1 is hereby enacted to read as follows:

30 Art. 190.1. Three-party acknowledgment; alternative to disavowal; time period

