

CHAPTER 198

PATERNITY

Original Senate File No. 134

AN ACT to amend W.S. 14-2-102(a)(iii), (b) and by creating new subsections (c) through (e), 14-2-104(d), 14-2-105(a)(ii), 14-2-107, 14-2-108(a) and (e), 26-15-135 and 35-1-417 by creating a new subsection (g); and to repeal W.S. 14-2-116(a) relating to parentage and paternity actions; providing for presumptions of paternity; providing a statute of limitations for specified paternity actions; providing procedures for paternity actions; eliminating the requirement for appointment of counsel; providing for medical insurance coverage for children for whom a presumption of paternity exists; providing for issuance of a new certificate of birth; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 14-2-102(a)(iii), (b) and by creating new subsections (c) through (e), 14-2-104(d), 14-2-105(a)(ii), 14-2-107, 14-2-108(a) and (e), 26-15-135 and 35-1-417 by creating a new subsection (g) are amended to read:

14-2-102. Presumption of paternity; rebuttal thereof.

(a) A man is presumed to be the natural father of a child if:

(iii) After the child's birth, he and the child's natural mother married or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid; and: (A) He has acknowledged his paternity of the child in writing filed with the state office of vital records services; or (B) With his consent, he is named as the child's father on the child's birth certificate; or (C) he is obligated to support the child under a written voluntary promise or by court order; or

(b) A presumption under SUBSECTION (a) OF this section may be rebutted in an appropriate action only by clear and convincing evidence. If two (2) or more presumptions UNDER SUBSECTION (a) OF THIS SECTION arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. A presumption UNDER SUBSECTION (a) OF THIS SECTION is rebutted by a court decree establishing paternity of the child by another man.

(c) IN ADDITION TO THE PRESUMPTIONS ARISING UNDER SUBSECTION (a) OF THIS SECTION, A MAN IS PRESUMED TO BE THE NATURAL FATHER OF A CHILD BORN IN WYOMING IF, WITH THE CONSENT OF THE MOTHER, HE HAS ACKNOWLEDGED HIS PATERNITY BY SIGNING AN AFFIDAVIT OF PATERNITY AND AN ACKNOWLEDGMENT OF THE PRIVILEGES AND OBLIGATIONS ASSOCIATED WITH PARENTAGE AND FILED THESE DOCUMENTS WITH THE STATE OFFICE OF VITAL RECORDS SERVICES. THE

CONSENT OF THE MOTHER SHALL INCLUDE AN AFFIDAVIT STATING THAT SHE WAS NOT MARRIED AT THE TIME OF CONCEPTION OR AT THE TIME OF BIRTH OF THE CHILD. THE FATHER'S ACKNOWLEDGMENT SHALL INCLUDE A STATEMENT OF THE RIGHT TO WITHDRAW THE AFFIDAVIT OF PATERNITY AS PROVIDED BY SUBSECTION (d) OF THIS SECTION ON OR BEFORE NINETY (90) DAYS OF THE SIGNING OF THE AFFIDAVIT OF PATERNITY. A MINOR'S AFFIDAVIT OF PATERNITY AND ACKNOWLEDGMENT SHALL ALSO BE SIGNED BY THE LEGAL GUARDIAN OF THE MINOR.

(d) A WITHDRAWAL OF AN AFFIDAVIT OF PATERNITY UNDER SUBSECTION (c) OF THIS SECTION SHALL BE MADE BY AFFIDAVIT FILED WITH THE STATE OFFICE OF VITAL RECORDS SERVICES AND IS VALID ONLY IF FILED ON OR BEFORE NINETY (90) DAYS FROM THE DATE THE AFFIDAVIT OF PATERNITY WAS SIGNED. WITHIN TEN (10) DAYS AFTER RECEIPT, THE OFFICE OF VITAL RECORDS SERVICES WILL PROVIDE NOTICE OF THE WITH-

DRAWAL TO THE BIRTH MOTHER AT THE ADDRESS SUPPLIED ON THE CHILD'S BIRTH CERTIFICATE.

(e) A PRESUMPTION UNDER SUBSECTION (c) OF THIS SECTION IS IRREBUTTABLE IF NOT WITHDRAWN AS PROVIDED BY SUBSECTION (d) OF THIS SECTION.

14-2-104. Right to bring paternity action; effect of agreements; proceedings when child not yet born.

(d) Regardless of its terms, an agreement, other than AN ACKNOWLEDGMENT PURSUANT TO W.S. 14-2-102(c) OR an agreement OR VOLUNTARY ACKNOWLEDGMENT approved by the court in accordance with W.S. 14-2-111(b), between an alleged or presumed father and the mother or child does not bar an action under this section.

14-2-105. Statute of limitations for paternity actions; effect on probate matters.

(a) An action to determine the existence of the father and child relationship as to a child who has no presumed father under W.S. 14-2-102 may be brought:

(ii) Not later than ~~three (3)~~ FIVE (5) years after the birth of the child in all other cases.

14-2-107. Parties; notice and hearing required. The child shall be made a party to the action. If ~~he~~ THE CHILD IS NOT REPRESENTED BY A STATE AGENCY AND THE CHILD is a minor, ~~he~~ THE CHILD shall be represented by ~~his~~ THE CHILD'S guardian or a guardian ad litem appointed by the court. The child's mother or father may not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under W.S. 14-2-102 and each man alleged to be the natural father may be made parties and shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

14-2-108. Informal hearing; refusal of witnesses or parties to testify; testimony of physician; temporary custody and support of children.

(a) UNLESS WAIVED BY AN AGREEMENT OF ALL PARTIES AND APPROVED BY THE COURT, AN INFORMAL HEARING SHALL BE HELD as soon as practicable after an action is brought to declare the existence or nonexistence of the father and child relationship. ~~an informal hearing shall be held.~~ The court may order that the hearing be held before a referee. The public is barred from the hearing. A record of the proceeding shall be kept.

(e) Any order providing for temporary custody and temporary support shall provide for a confidential statement of the addresses and social security numbers of the parties, and the name and address of the obligor's employer. The court shall order each party to notify the clerk of court in writing within fifteen (15) days of any change in address. ~~The confidential statement shall be available only to the clerk of the court, the court, and, with the approval of the court, a party or a party's assignee or successor in interest.~~

26-15-135. Coverage of dependent children.

(a) No insurance company, multi-employer trust or other provider of an individual, group or blanket health insurance product in this state shall:

(i) Refuse to accept and honor an otherwise valid claim for a covered service which is filed by either parent of a covered child, or by the department of family services in the case of an assignment under W.S. 20-6-106, who submits valid copies of medical bills; ~~No insurance company, multi-employer trust or other provider of an individual, group or blanket health insurance product in this state shall~~

(ii) Refuse to provide medical insurance coverage of a dependent child for the sole reason that the child is not living in the home of the parent applying for the policy; ~~OR~~

(iii) REFUSE TO PROVIDE MEDICAL INSURANCE COVERAGE FOR AN OTHERWISE INSURABLE CHILD UNDER THE POLICY IF THE CHILD FOR WHOM THE CLAIM IS MADE IS PRESUMED TO BE THE NATURAL CHILD OF THE INSURED UNDER W.S. 14-2-102 OR 14-2-104.

35-1-417. New certificate of birth following adoption; legitimation; and paternity determination.

(g) UPON RECEIPT OF AN AFFIDAVIT OF WITHDRAWAL OF ACKNOWLEDGMENT OF PATERNITY AS REQUIRED IN W.S. 14-2-103(c) WITHIN NINETY (90) DAYS OF THE SIGNING OF THE AFFIDAVIT OF PATERNITY, A NEW CERTIFICATE OF BIRTH SHALL BE ISSUED DELETING THE FATHER AND CHANGING THE SURNAME OF THE CHILD TO THE LEGAL SURNAME OF THE MOTHER AT THE TIME OF THE CHILD'S BIRTH.

STATE OF WYOMING GENERAL SESSION 1993

Section 2. W.S. 14-2-116(a) is repealed.

Section 3. This act is effective July 1, 1993.

Approved March 8, 1993.