

SECOND REGULAR SESSION

SENATE BILL NO. 1330

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS BRAY AND DAYS.

Read 1st time February 26, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4748L.01I

AN ACT

To repeal sections 193.085 and 193.087, RSMo, and to enact in lieu thereof three new sections relating to establishment of paternity.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 193.085 and 193.087, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 193.085, 193.087, and 1, to read as follows:

193.085. 1. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within seven days after such birth and shall be registered if such certificate has been completed and filed pursuant to the provisions of this section.

2. When a birth occurs in an institution or en route to an institution, the person in charge of the institution or such person's designated representative shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate pursuant to this section or as otherwise directed by the state registrar within the required seven days. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth within five days after the birth. If the physician or other person in attendance does not certify to the facts of birth within the five-day period, the person in charge of the institution shall complete and sign the certificate.

3. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

- (1) The physician in attendance at or immediately after the birth;
- (2) Any other person in attendance at or immediately after the birth;
- (3) The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

4. When a birth occurs on a moving conveyance within the United States and the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

child is first removed from the conveyance in this state, the birth shall be registered in this state and such place shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the certificate shall show the actual place of birth insofar as can be determined.

5. If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless:

(1) Paternity has been determined otherwise by a court of competent jurisdiction; or
(2) The mother executes an affidavit attesting that the husband is not the father and the putative father is the father, and the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. If such affidavits are executed, the putative father shall be shown as the father on the birth certificate and the signed acknowledgment of paternity shall be considered a legal finding of paternity. The affidavits shall be as provided for in section 193.215; or

(3) The mother has signed an identification of presumptive father form in accordance with subdivision (2) of subsection 1 of section 193.087.

6. In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father and surname of the child shall be entered on the certificate of birth pursuant to the finding and order of the court.

7. Notwithstanding any other law to the contrary, if a child is born to unmarried parents, the name of the father and other required information shall be entered on the certificate of birth only:

(1) If an acknowledgment of paternity pursuant to section 193.215 is completed[.];
or

(2) If paternity is determined by a court of competent jurisdiction or by an administrative order of the division of child support enforcement; or

(3) If the mother has signed an identification of presumptive father form in accordance with subdivision (2) of subsection 1 of section 193.087.

8. If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

9. The birth certificate of a child born to a married woman as a result of artificial insemination, with consent of her husband, shall be completed pursuant to the provisions of subsection 5 of this section.

10. Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within the required seven days.

193.087. 1. In addition to the requirements of [subsection 2 of] section 193.085[.]:

(1) When a birth occurs to an unmarried mother, whether in an institution or en route to an institution, the person in charge of the institution or a designated representative shall:

[(1)] (a) Provide a form or affidavit prescribed by the state registrar that may be completed by the child's mother and father to voluntarily acknowledge paternity of the child pursuant to section 193.215;

[(2)] (b) File the form, when completed, along with the certificate required by this section; and

[(3)] (c) Provide oral and written notice to the affiant required by section 193.215; and

(2) When the birth of a child occurs to an unmarried woman, or when the birth of a child occurs to a woman who was married at the time of conception or birth and whose husband is not the biological father of the child, the institution at the time of birth and the local registrar or county clerk after the birth shall do the following:

(a) Provide an opportunity for the child's mother to sign an identification of presumptive father form that states who the mother believes is the father of the child. Such form shall be developed by the family support division and shall contain any information on the identity and location of the possible father, including the last known address, last known employer, Social Security number, or any other information requested by the family support division. Such form shall not be an affidavit and shall not subject the mother to any civil or criminal penalties if the information contained on the form is false or inaccurate, unless the information on the form is provided with an intent to deceive or with knowledge that the information is false. The family support division shall furnish the identification of presumptive father forms to institutions, county clerks, and state and local registrars' offices. The form shall include instructions to send the original signed identification of presumptive father form to the family support division;

(b) Provide the following documents, furnished by the family support division, to the child's mother for her review at the time the opportunity is provided to establish a parent and child relationship:

a. An explanation of the implications of, alternatives to, consequences of, and the rights and responsibilities that arise from signing an identification of presumptive father form, including an explanation of the parental rights and responsibilities of child support, visitation, custody, health insurance coverage, and payment of birth expenses;

b. An explanation of the benefits of having a child's parentage established and the availability of parentage establishment and child support enforcement services;

c. A request for an application for child support enforcement services from the family support division;

d. Instructions concerning the opportunity to speak, either by telephone or in person, with staff of the family support division who are trained to clarify information and answer questions about paternity establishment;

e. Instructions for completing and signing the identification of presumptive father form;

(c) Provide an oral explanation of the documents and instructions set forth in paragraph (b) of this subdivision, including an explanation of the implications of, alternatives to, consequences of, and the rights and responsibilities that arise from signing an identification of presumptive father form. The oral explanation may be given in person or through the use of video or audio equipment.

2. Any institution, the person in charge or a designated representative shall be immune from civil or criminal liability for providing the form or affidavit required by subsection 1 of this section, the information developed pursuant to that subsection, or otherwise fulfilling the duties required by subsection 1 of this section.

3. The **family support** division [of child support enforcement] may contract with the department of health and senior services to provide assistance and training to [the hospital staff] **any person** assigned responsibility for providing the information, as appropriate, to carry out duties pursuant to this section. The **family support** division [of child support enforcement] shall develop and distribute free of charge the information on the rights and responsibilities of parents that is required to be distributed pursuant to this section. The department of health and senior services shall [provide] **distribute** free of charge to hospitals, **local health department offices, county welfare offices, Women, Infants, and Children (WIC) offices, parents as teachers programs, head start programs, and other appropriate government offices and programs** the acknowledgment of paternity affidavit, and instructions on the completion of the affidavit.

4. If no contract is developed with the department of health and senior services, then the **family support** division [of child support enforcement] shall provide the assistance and training activities [to hospitals] pursuant to subsection 3 of this section.

5. Any affiant who intentionally misidentifies another person as a parent may be prosecuted for perjury, pursuant to section 575.040, RSMo.

6. Due to lack of cooperation by public assistance recipients, the division shall either suspend the entire public assistance cash grant, or remove the needs of the adult recipient of public assistance from the cash grant, subject to good cause exceptions pursuant to federal

law or regulations.

Section 1. 1. When an identification of presumptive father form is submitted to the family support division in accordance with subdivision (2) of subsection 1 of section 193.087, RSMo, the division shall open a file for services for the child named on the form and take the necessary steps to locate the suspected father of the child named on the form. The submission of an identification of presumptive father form shall be deemed in compliance with the requirements of chapter 208, RSMo, regarding the requirements of public assistance recipients to cooperate in the establishment of paternity.

2. If the suspected father is located, the division shall pursue all legal measures to obtain a DNA sample from the suspected father to establish whether the suspected father is the biological father of the child. If a DNA test confirms that the suspected father is in fact the biological father, the division shall inform the biological father of his rights and responsibilities as the father of the child, and determine any eligibility for services based upon the establishment of paternity. Upon establishment of paternity, the attorney general may recover the administrative costs associated with the establishment of paternity from the biological father.

Bill

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