

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	9 - 0 - 0
Yeas:	Barker, Bonamici, Cameron, Flores, Komp, Krieger, Read, Whisnant, Macpherson
Nays:	0
Exc.:	0
Prepared By:	Matt Kalmanson, Counsel
Meeting Dates:	2/13, 4/13

WHAT THE MEASURE DOES: Abolishes conclusive presumption that a husband is the father of a child born during the marriage if he was living with his wife at the time of conception and was not impotent or sterile. Creates rebuttable presumption that a child born to an unmarried woman, who was married within 300 days of the birth, is the child of the former husband. Allows the husband or wife only – so long as the husband and wife are living together – to challenge the paternity of the child. Permits a court to admit evidence offered to rebut presumption if it is just and equitable to do so, giving consideration to the interests of the parties and the child. Allows a party to a voluntary acknowledgement of paternity, or the child, or Department of Human Services in certain instances, to challenge a voluntary acknowledgement at any time on the basis of fraud, duress or a material mistake of fact. Establishes that if a court finds by a preponderance of the evidence that a voluntary acknowledgement or a paternity judgment was signed because of fraud and, in the case of a paternity judgment, blood tests establish that the legal father is not the biological father, the court set aside the acknowledgment unless, after giving consideration to the interests of the parties and the child, the court finds that doing so would be substantially inequitable. Allows a party to challenge a paternity judgment based on mistake within one year of entry of the judgment. Allows a party to challenge a paternity judgment based on fraud or misconduct of a party if the challenge is brought within a year of discovering the fraud or misconduct. Allows a court to require the parties to submit to blood tests, if it is just and equitable to do so.

ISSUES DISCUSSED:

- The Oregon Law Commission and the Uniform Parentage Act Work Group
- The 2005 amendments to the Oregon paternity laws and its sunset provision
- Presumptions of legal paternity under different circumstances
- Voluntary acknowledgments and paternity judgments
- Social and scientific changes since the original enactment of paternity laws, and their impact on paternity law
- Types of challenges to determinations of legal paternity and processes for resolving those challenges
- Paternity fraud
- Nature of court discretion in challenges to paternity based on fraud

EFFECT OF COMMITTEE AMENDMENT: Replaces the bill.

BACKGROUND: HB 2382 is the product of the Oregon Law Commission's work group on paternity. It would update paternity law in light of social changes – the number of children born to unmarried women has increased significantly since the 1970s – and scientific changes – courts can conclusively determine biological paternity using genetic testing. In 2005, the legislature addressed some of these issues when it enacted SB 234, however the provisions are subject to a two year sunset provision. If the sunset occurs, the previous law would go back into effect, meaning, among other things, that there would be a conclusive presumption that a husband is the father of a child born during the marriage and a legal father's ability to challenge a previous paternity determination, based on an allegation of paternity fraud, would be limited. HB 2382 would repeal the conclusive presumption of paternity, create new presumptions, provide when and how a legal father may challenge a voluntary acknowledgment determination, and define a court's discretion in these circumstances.

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This summary has not been adopted or officially endorsed by action of the committee.