

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass the A-Engrossed Measure
Vote: 3 - 0 - 2
Yeas: Beyer, Prozanski, Burdick
Nays: 0
Exc.: Kruse, Walker
Prepared By: Matt Kalmanson, Counsel
Meeting Dates: 5/22, 5/23

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, 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. Defines discretion of court to set aside paternity judgment or acknowledgement in cases of paternity fraud. 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
- 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
- Best interests of the child standard
- Rights and responsibilities of third parties to challenge paternity determinations

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: HB 2382 A is the product of the Oregon Law Commission's work group on paternity. It would update paternity law in light of social and scientific changes. The number of children born to unmarried women has increased significantly since the 1970s, and courts now can determine conclusively 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 A 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.