

# House Bill 2382

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon Law Commission)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies process for challenging voluntary acknowledgment of paternity.

## A BILL FOR AN ACT

1  
2 Relating to paternity; amending ORS 109.070.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 109.070, as amended by section 17, chapter 160, Oregon Laws 2005, is  
5 amended to read:

6 109.070. (1) The paternity of a person may be established as follows:

7 (a) The child of a wife cohabiting with her husband who was not impotent or sterile at the time  
8 of the conception of the child is conclusively presumed to be the child of her husband, whether or  
9 not the marriage of the husband and wife may be void.

10 (b) A child born [*in wedlock*] **to a married woman**, there being no judgment of separation [*from*  
11 *bed or board*], is **rebuttably** presumed to be the child of the mother's husband, **regardless of**  
12 whether [*or not*] the marriage of the husband and wife may be void. [*This is a disputable*  
13 *presumption.*]

14 (c) By the marriage of the parents of a child after **the birth of the child, and the parents filing**  
15 **with the State Registrar of the Center for Health Statistics the voluntary acknowledgment**  
16 **of paternity form as provided for by ORS 432.287.**

17 (d) By filiation proceedings.

18 (e) By filing with the State Registrar of the Center for Health Statistics the voluntary ac-  
19 knowledgment of paternity form as provided for by ORS 432.287. Except as otherwise provided in  
20 subsections (2) to (4) of this section, this filing establishes paternity for all purposes.

21 (f) By having established paternity through a voluntary acknowledgment of paternity process in  
22 another state.

23 (g) By paternity being established or declared by other provision of law.

24 (2) A party to a voluntary acknowledgment of paternity may rescind the acknowledgment within  
25 the earlier of:

26 (a) Sixty days after filing the acknowledgment; or

27 (b) The date of a proceeding relating to the child, including a proceeding to establish a support  
28 order, in which the party wishing to rescind the acknowledgment is also a party. For the purposes  
29 of this paragraph, the date of a proceeding is the date on which an order is entered in the pro-  
30 ceeding.

31 (3)(a) A signed voluntary acknowledgment of paternity filed in this state may be challenged in

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 circuit court:

2 (A) At any time after the 60-day period **referred to in subsection (2) of this section** on the  
 3 basis of fraud, duress or a material mistake of fact. [*The party bringing the challenge has the burden*  
 4 *of proof.*] **The challenge may be brought by:**

5 (i) **A party to the acknowledgment;**

6 (ii) **The child named in the acknowledgment; or**

7 (iii) **The Department of Human Services or the administrator, as defined in ORS 25.010,**  
 8 **if the child named in the acknowledgment is in the care and custody of the department under**  
 9 **ORS chapter 419B and the department or the administrator reasonably believes that the ac-**  
 10 **knowledgegment was obtained through fraud, duress or a material mistake of fact.**

11 (B) **By a party to the acknowledgment** within one year after the acknowledgment has been  
 12 filed, unless the provisions of subsection (4)(a) of this section apply. A challenge to the acknowl-  
 13 edgment is not allowed more than one year after the acknowledgment has been filed, unless the  
 14 provisions of subparagraph (A) of this paragraph apply.

15 (b) Legal responsibilities arising from the acknowledgment, including child support obligations,  
 16 may not be suspended during the challenge, except for good cause.

17 (c) **The challenge shall be initiated by filing a petition with the circuit court. Unless**  
 18 **otherwise specifically provided by law, the challenge shall be conducted pursuant to the**  
 19 **Oregon Rules of Civil Procedure.**

20 (d) **The party bringing the challenge has the burden of proof.**

21 (4)(a) Within one year after a voluntary acknowledgment of paternity form is filed in this state  
 22 and if blood tests, as defined in ORS 109.251, have not been previously completed, a party to the  
 23 acknowledgment or the state, if child support enforcement services are being provided under ORS  
 24 25.080, may apply to the court or to the administrator, as defined in ORS 25.010, for an order re-  
 25 quiring that the mother, the child and the male party submit to blood tests as provided in ORS  
 26 109.250 to 109.262.

27 (b) If the results of the tests performed under paragraph (a) of this subsection exclude the male  
 28 party as a possible father of the child, a party or the state, if child support enforcement services  
 29 are being provided under ORS 25.080, may [*apply to*] **file a petition with** the court for a judgment  
 30 of nonpaternity. The party that [*applied*] **petitioned** for the judgment shall send a **court** certified  
 31 true copy of the judgment to the State Registrar of the Center for Health Statistics and to the De-  
 32 partment of Justice as the state disbursement unit. Upon receipt of a judgment of nonpaternity, the  
 33 state registrar shall correct any records maintained by the state registrar that indicate that the  
 34 male party is the parent of the child.

35 (c) The state Child Support Program shall pay any costs for blood tests **ordered by the court**  
 36 **or the administrator**, subject to recovery from the party who requested the tests.

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