



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2011 Assembly Bill 42**

**Assembly  
Amendment 1**

*Memo published:* August 25, 2011

*Contact:* Anne Sappenfield, Senior Staff Attorney (267-9485)

2011 Assembly Bill 42 relates to conclusive determinations of paternity on the basis of genetic test results and orders that may be granted on the basis of genetic test results.

### **Current Law**

Under current law, paternity may be established by a court in a paternity action. In addition, unmarried parents, together, may sign and file a statement acknowledging paternity with the State Registrar. A statement that is on file with the State Registrar after the last day on which either parent may timely rescind the statement is a conclusive determination of paternity and has the same effect as a judgment of paternity. No court action is needed to effectuate the legal paternity status under these circumstances.

### **Assembly Bill 42**

Assembly Bill 42 provides that, if genetic tests have been performed with respect to a child, the child's mother, and a male alleged, or alleging himself, to be the child's father, the test results constitute a conclusive determination of paternity, which shall be of the same effect as a judgment of paternity if all of the following apply:

- Both the child's mother and the male are over the age of 18 years.
- The genetic tests were performed as required by a county child support agency.
- The test results show that the male is not excluded as the father and that the statistical probability of the male's parentage is 99.0% or higher.
- No other male is presumed to be the father.

If the county child support agency receives genetic test results and the above requirements are satisfied, the county child support agency must send notice to the parties by regular mail at their last-known addresses. The notice must be sent at least 15 days in advance of the date on which the county child support agency intends to file a report of the results with the State Registrar and must advise the parties of all of the following:

- The test results.
- That a report of the test results will be filed with the State Registrar if the father does not timely object and the date on which the report will be filed.
- That an action concerning custody, child support, or physical placement rights may be brought with respect to the parties.
- That the father may object to the test results by submitting an objection in writing to the county child support agency no later than the date before the date on which the report will be filed with the State Registrar and that, if the father submits an objection, the state will commence a paternity action.

If the male does not timely submit an objection, the county child support agency must file with the State Registrar a report showing the names, dates, and birth places of the child and the father; the Social Security numbers of the mother, father, and child; and the maiden name of the mother along with the fee for changing a birth certificate. If the male timely submits an objection, the county child support agency must commence a paternity action on behalf of the state. The genetic tests, discussed above, are admissible in an action commenced under this provision.

If the male does not timely submit an objection, an action affecting the family concerning custody, child support, or physical placement rights may be brought with respect to a child's mother and a male who, along with the child, were the subjects of genetic tests, the results of which constitute a conclusive determination of paternity, as described above. The bill specifies the content of orders in these actions. The bill also gives the court the authority to change the child's name under specified conditions.

Under the bill, at any time in an action to establish the paternity of a child, upon the motion of a party, the court may, with respect to a male, do any of the following if the court determines that a judicial determination of whether the male is the father of the child is not in the best interest of the child: (a) refuse to order genetic tests; or (b) dismiss the action, regardless of whether genetic tests have been performed or what the results of the tests, if performed, were.

### **Assembly Amendment 1**

Under Assembly Amendment 1, when the parties to a paternity proceeding receive notice that a conclusive determination of paternity, based upon genetic test results, will be filed with the State Registrar, the mother of the child, in addition to the male alleged to be the father, may object to the conclusive determination of paternity.

**Legislative History**

Assembly Amendment 1 was offered by Representative Kestell. On August 24, 2011, the Assembly Committee on Children and Families voted unanimously to recommend adoption of the amendment and recommended passage of the bill, as amended, on a vote of Ayes, 5; Noes, 1.

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