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TO: Assembly Committee on Family Law
FROM: Rep. Scott Krug
RE: 2019 SENATE BILL 158
DATE: August 27, 2019

I write today to thank the committee and Senator Kooyenga for holding a hearing on SB 158, which deals with a presumption and conclusive determination of paternity on the basis of genetic test results and orders that may be granted on the basis of genetic test results.

The Assembly companion to SB 158 is Assembly Bill 166, and AB 166 had a public hearing before the Assembly Committee on Family Law on May 21. The hearing went well and no one expressed opposition to the proposal. I want to share with you in the Senate, my thoughts about the proposal that I shared with Assembly Family Law.

One of the most pressing issues to me as the Chair of the Public Benefit Reform committee is finding ways to make it easier for families to succeed on their own as much as humanly possible.

We know that when fathers are involved as quickly as possible in a child's life that long term outcomes are improved. Whether through voluntary stipulation, court ordered paternity, or this new avenue of administrative paternity two parent involvement should be the norm. This norm can be achieved without artificially clogging the family court system, or process service.

This bi-partisan bill takes a step towards better outcomes for families. I know it looks like a very long intense bill, but when broken down into laymen terms is about as common sense as a bill can be. This legislation simply creates another way for paternity to be established.

The administrative paternity option created in SB 158/AB 166 allows fathers who go through genetic testing to opt out of having to go a court hearing to establish their parental status. It should not be acceptable to us any longer that long delays and costly court time be spent on establishing something as simple as paternity unless it's necessary to use that process.

MORE

This bill helps reach the goals of WI's "Father for Every Child Law" s. 767.80 (6m). It is good for children, parents (both custodial and non-custodial), and for our overworked court system. Yes, there are circumstances still that establishing paternity isn't in the best interest of a child and this bill protects the ability of the courts to not establish paternity in those cases. Rare as they are, these cases exist and (again) SB 158/AB 166 protects the ability of courts to not establish paternity in those cases.

In preparing SB 158/AB 166 I've been blessed to have some very good partners from the Wisconsin Child Support Enforcement Association which is made up of very talented, dedicated county child support agency directors and staff.

This proposal is supported by the Wisconsin Child Support Enforcement Association (WCSEA), the Wisconsin Counties Association (WCA) and the Family Law section of the State Bar of Wisconsin.

Over the years we have worked towards the goal of making Wisconsin the number-1 state in child support collections. We are close to that goal, and I am committed to seeing this goal achieved.

Several people are here with us today to help inform you on how important this new avenue of establishing paternity can be and I am sure to talk a little bit on how well WI is doing on child support enforcement/collections but more importantly how agencies in our counties across the state are doing in helping parents become more self-sufficient.

One of the main supporters of this proposal is Wood Child Support Director Brent Vruwink, who has been a leader statewide on this issue and other child support policy. Brent can walk you through the process of how paternity is established currently, how establishing paternity early on is important for long term outcomes and the burden we are placing on our courts under current law.

I conclude by asking for your support for SB 158. Thank you for your attention to this matter.

State Rep. Scott Krug

MEMORANDUM

TO: Honorable Members of the Senate Committee on Universities, Technical Colleges, Children and Families

FROM: Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs

DATE: August 27, 2019

SUBJECT: Support for Senate Bill 158 – Administrative Paternity

County child support agencies work with parents to ensure both mother and father, when appropriate, take responsibility for the care and well-being of their children. In a number of cases, the first step in ensuring parental responsibility is establishing paternity.

Under current law, a court may adjudicate a man to be a child's father in a paternity action, or a man and a child's mother may sign and file a statement acknowledging paternity with the state registrar. Both cases result in a conclusive determination that the man is the child's father, and the state registrar may change the child's birth certificate to show the man as the child's father and a court may enter orders for child support, legal custody, and physical placement rights with respect to the man.

Administrative paternity legislation would streamline the paternity establishment process in Wisconsin by allowing local child support agencies to walk participants through the paternity establishment process without having to go to court.

Under Senate Bill 158, a man is conclusively determined to be a child's father if all of the following are satisfied:

- Genetic tests are performed with respect to the child, the child's mother, and the man in response to a subpoena issued by a county child support agency.
- The test results show that the man is not excluded as the father and the statistical probability that he is the father is 99 percent or higher.
- Both the mother and the man are at least 18 years old.
- There is no marriage or statement acknowledging paternity presumption.

If all of the requirements are satisfied, the child support agency must send notice to the parties advising of the test results, that an action may be commenced for orders related to

child support, legal custody, and physical placement, and that either party may submit to the child support agency a written objection to the test results. If either party submits an objection, the child support agency must commence a paternity action on behalf of the state and the test results are admissible in the action. If neither party objects, the name of the father will be added on the child's original birth certificate.

Establishing administrative paternity in Wisconsin makes sense for the following reasons:

- Frees up time for already overworked judges and court personnel.
- Streamlines the paternity establishment process in Wisconsin.
- Affords participants the same due process rights they enjoy under current law. If a man alleged to be the father objects to the use of the test results to establish paternity administratively, the child support agency would not be allowed to submit the results to the state registrar, and instead, would have to file a court action to proceed with paternity establishment.
- Many parents prefer to avoid a court process to establish paternity.
- Establishes paternity in a timely manner – no need to wait for a court date, especially in uncontested cases.
- Supports the state's interest in ensuring all children have two parents to care and provide for them [Wis. Stats. §767.80(6m) - "Father for Every Child Law"].

Thank you for considering our comments.

FAMILY LAW SECTION

To: Members, Senate Committee on Universities, Technical Colleges, Children & Families
From: Family Law Section, State Bar of Wisconsin
Date: August 27, 2019
Re: SB 158 – mandatory paternity testing

The Family Law Section of the State Bar of Wisconsin supports SB 158, Senator Testin's proposal regarding the determination of paternity based on genetic testing. The section members believe there are many benefits to this legislation, which provides a level of certainty of parentage from the beginning of these cases, and encourage you to support this measure.

The first benefit to enacting this legislation entails a reduction in court time. This proposal provides one less hearing for the mother to attend, who in many of these administrative cases is the primary financial support for the child, and frequently has very limited ability to take time off of work.

Secondly, SB 158 encourages collaboration amongst the parties. Rather than starting off the relationship between the parties and between the State and potential father in an adversarial manner, it allows them to work together, rather than require pleadings to be filed and a sheriff to serve a summons.

Procedurally, section members also see a benefit to this proposal in that the child support agency already has the ability to administratively genetically test the parties. Presently, if the genetic tests support a finding of paternity, the court is bound by the results under current law and can't make the best interest determination once they're completed. The new bill recognizes this and allows the court to make a best interest determination even after testing.

Lastly, the bill allows couples a path in between filing the paternity acknowledgment form and filing a lawsuit. Given the many difficulties with paternity acknowledgment later on, it provides certainty which benefits all the parties, but particularly the child. Further, it keeps the court from having the difficult decision related to finding out months or years later that legal father is not the biological father and dealing with the subsequent litigation that is not beneficial to any party, in particular the child.

For these reasons, the State Bar's Family Law Section asks for your support in the passage of SB 158.

For more information, please do not hesitate to contact our Government Relations Coordinator, Lynne Davis, ldavis@wisbar.org or 608.852.3603.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.



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