



1995 SENATE BILL 226

June 1, 1995 - Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Judiciary.

1 **AN ACT to amend** 767.45 (1) (c), 767.62 (title) and 767.62 (1); **to repeal and**
2 **recreate** 767.62 (3); and **to create** 69.15 (3) (d) and 767.62 (2) of the statutes;
3 **relating to:** voluntary acknowledgment of paternity.

Analysis by the Legislative Reference Bureau

Under current law, generally only after a man has been adjudicated to be the father of a nonmarital child in a paternity action may the man be ordered to pay child support for the child. An exception is if the man has signed and filed with the state registrar a statement acknowledging paternity. In that case, a judge or family court commissioner may order the man to pay child support in any action affecting the family, such as an action for support. The action need not be a paternity action. Within one year after signing a statement acknowledging paternity or one year after attaining age 18, whichever is later, a person who signed the statement, which may be either the man or the mother of the child, may request that the judge or family court commissioner order blood tests. If the results of the blood tests exclude the man as the father of the child, the court must dismiss any action for support, or vacate any order for support, with respect to the man.

This bill provides that if the results of the blood tests exclude the man, not only must the court dismiss any action for support and vacate any order for support, the court must also notify the state registrar, who must prepare a new birth certificate for the child, omitting the man's name. (When a man signs and files a statement acknowledging paternity, his name is added to the birth certificate as the father of the child.) If no action for support has been filed, a person who has signed a statement acknowledging paternity may request that the county child support agency arrange for blood tests. If the results exclude the man, the child support agency must notify the state registrar.

The bill also provides for a nonjudicial determination of paternity, on the basis of a signed and filed statement acknowledging paternity, that has the same effect as a judgment of paternity. The determination of paternity arises when the statement

has been on file with the state registrar for one year or one year after the man who signed the statement attains age 18, whichever is later. The statement must include notice of the consequences of signing and filing. Such a determination may be reopened under the same circumstances as a judgment of paternity may be reopened: at any time for good cause shown; at any time for such reasons as fraud, mistake or new evidence; or within one year after the determination arises (2 years after the later of the date the statement is filed or the man attains age 18) for any or no reason.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 69.15 (3) (d) of the statutes is created to read:

2 69.15 (3) (d) If the state registrar receives notice under s. 767.62 (2) (b) that a
3 man whose name was inserted on a birth certificate under par. (b) 3. is excluded as
4 the father of the child after the performance of blood tests, along with the fee under
5 s. 69.22, the state registrar shall prepare under sub. (6) a new certificate omitting
6 the father's name.

7 **SECTION 2.** 767.45 (1) (c) of the statutes is amended to read:

8 767.45 (1) (c) ~~A Unless s. 767.62 (3) applies, a man presumed to be the child's~~
9 father under s. 891.405 or 891.41.

10 **SECTION 3.** 767.62 (title) of the statutes is amended to read:

11 **767.62** (title) ~~Orders when Voluntary acknowledgment of paternity~~
12 **acknowledged.**

13 **SECTION 4.** 767.62 (1) of the statutes is amended to read:

14 767.62 (1) (title) ORDER FOR SUPPORT. In an action affecting the family that seeks
15 to establish an obligation for the support of a child, the court or family court
16 commissioner may enter a child support order against a man who has signed and
17 filed with the state registrar under s. 69.15 (3) (b) 3. a statement acknowledging

1 paternity that includes notice of the provisions of this ~~section~~ subsection and who has
2 notice of the hearing. The court shall determine child support under this subsection
3 in the manner provided in s. 767.51 (4m) to (5d).

4 **SECTION 5.** 767.62 (2) of the statutes is created to read:

5 767.62 (2) BLOOD TESTS. (a) Any person who signs a statement acknowledging
6 paternity that is filed with the state registrar under s. 69.15 (3) (b) 3. may, within one
7 year after the statement is filed or one year after attaining age 18, whichever is later,
8 request blood tests. If an action has been filed under sub. (1), the court or family court
9 commissioner shall require the appropriate parties to submit to blood tests upon
10 such a request. If no action affecting the family related to the paternity or support
11 of the child has been filed, the person may request that the county designee under
12 s. 59.07 (97) arrange for the blood tests. The person requesting the blood tests shall
13 be responsible for the cost of the blood tests. This paragraph does not apply if, before
14 a request for blood tests under this paragraph, the man who signed the statement
15 acknowledging paternity is determined to be the father of the child after the
16 performance of blood tests.

17 (b) If the results of blood tests requested under par. (a) exclude as the father
18 of the child the man who signed the statement acknowledging paternity, the court
19 shall dismiss any action for child support under sub. (1), or shall vacate any order
20 for child support entered under sub. (1), with respect to the man and shall notify the
21 state registrar to remove the man's name as the father of the child from the child's
22 birth certificate. If no action affecting the family related to the paternity or support
23 of the child was filed and the county designee under s. 59.07 (97) arranged for the
24 blood tests, the county designee shall notify the state registrar on a form designated
25 by the state registrar to remove the man's name as the father of the child from the

1 child's birth certificate. No paternity action or action under sub. (1) may thereafter
2 be brought against the man with respect to the child. The person who requested the
3 blood tests under par. (a) shall be responsible for any fees charged by the state
4 registrar for preparing a new birth certificate.

5 **SECTION 6.** 767.62 (3) of the statutes is repealed and recreated to read:

6 **767.62 (3) CONCLUSIVE DETERMINATION OF PATERNITY.** (a) A statement
7 acknowledging paternity that includes notice of the provisions of this subsection and
8 that has been on file with the state registrar under s. 69.15 (3) (b) 3. for at least one
9 year, or at least one year after the date on which the man who signed the statement
10 attained the age of 18, whichever is later, is a conclusive determination, which shall
11 be of the same effect as a judgment, of paternity. This paragraph does not apply if
12 the results of blood tests exclude the man as the father of the child.

13 (b) A determination of paternity under par. (a) may be reopened under any of
14 the following circumstances:

15 1. At any time upon motion or petition for good cause shown.

16 2. Upon a motion under s. 806.07.

17 3. Within 2 years after the date on which the statement acknowledging
18 paternity was filed with the state registrar or within 2 years after the date on which
19 the man who signed the statement attained the age of 18, whichever is later.

20 (c) The notice requirements under s. 69.15 (3) (b) 3. apply to this subsection
21 beginning with forms for the acknowledgement of paternity that are prescribed by
22 the state registrar on January 1, 1996.

23 **SECTION 7. Initial applicability.**

1 (1) STATEMENTS ACKNOWLEDGING PATERNITY. The treatment of sections 767.45
2 (1) (c) and 767.62 (3) of the statutes first applies to statements acknowledging
3 paternity that are filed with the state registrar on January 1, 1996.

4 **SECTION 8. Effective date.**

5 (1) VOLUNTARY ACKNOWLEDGMENT OF PATERNITY. This act takes effect on January
6 1, 1996.

7 (END)