
HOUSE BILL 2683

State of Washington

62nd Legislature

2012 Regular Session

By Representative Walsh

Read first time 01/24/12. Referred to Committee on Judiciary.

1 AN ACT Relating to authorizing the termination of all legal
2 responsibilities of a nonparent if genetic testing shows by clear and
3 convincing evidence that a man is not the genetic father of a child;
4 amending RCW 26.26.310, 26.26.320, 26.26.335, 26.26.530, 26.26.535,
5 26.26.600, and 26.26.405; and adding a new section to chapter 26.26
6 RCW.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.26 RCW
9 to read as follows:

10 (1) A man may file a petition in superior court to rescind an
11 acknowledgment of paternity, challenge a presumption of paternity, or
12 contest an adjudication of paternity under this chapter at any time
13 within the limitations imposed under subsection (4) of this section if
14 genetic testing that complies with RCW 26.26.410 shows by clear and
15 convincing evidence that the man is not the genetic father of the
16 child.

17 (2) A man who successfully proves that he is not the genetic father
18 of the child may file a valid denial of paternity with the state
19 registrar of vital statistics and, from the date of the filing, shall

1 be discharged from all of the rights and duties of a parent, including
2 any obligation to pay child support under any court order or
3 administrative finding.

4 (3) This section does not apply if:

5 (a) The man is the child's adoptive father; or

6 (b) The child was conceived by assisted reproduction and the man
7 consented to assisted reproduction with the intent to be the parent of
8 the child born.

9 (4)(a) A petitioner seeking to rescind an acknowledgment of
10 paternity, challenge a presumption of paternity, or contest an
11 adjudication of paternity of a child born on or after the effective
12 date of this section must file the petition within two years of the
13 date on which the petitioner becomes aware of the facts alleged in the
14 petition indicating that the petitioner is not the child's genetic
15 father.

16 (b) A petitioner seeking to rescind an acknowledgment of paternity,
17 challenge a presumption of paternity, or contest an adjudication of
18 paternity of a child born before the effective date of this section has
19 two years from the effective date of this section to file a petition,
20 regardless of the date on which the petitioner became aware of the
21 facts alleged in the petition indicating that the petitioner is not the
22 child's genetic father.

23 **Sec. 2.** RCW 26.26.310 and 2011 c 283 s 13 are each amended to read
24 as follows:

25 A presumed father of a child may sign a denial of his paternity at
26 any time. The denial is valid only if:

27 (1) An acknowledgment of paternity signed by another man is filed
28 under RCW 26.26.320; or

29 (2) The denial is in a record, (~~and~~) is signed under penalty of
30 perjury(~~and~~

31 ~~and~~), and the presumed father has (a) successfully rescinded or
32 challenged the acknowledgment, adjudication, or presumption of
33 paternity; or (b) has not previously(~~and~~

34 ~~acknowledged his paternity, unless the previous acknowledgment~~
35 ~~has been rescinded under RCW 26.26.330 or successfully challenged under~~
36 ~~RCW 26.26.335; or~~

37 ~~and~~) been adjudicated to be the father of the child.

1 **Sec. 3.** RCW 26.26.320 and 2011 c 283 s 15 are each amended to read
2 as follows:

3 (1) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a
4 valid acknowledgment of paternity filed with the state registrar of
5 vital statistics is equivalent to an adjudication of parentage of a
6 child and confers upon the acknowledged father all of the rights and
7 duties of a parent.

8 (2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a
9 valid denial of paternity filed with the state registrar of vital
10 statistics (~~((in conjunction with a valid acknowledgment of paternity))~~)
11 is equivalent to an adjudication of the nonpaternity of the presumed
12 father and discharges the presumed father from all of the rights and
13 duties of a parent, including any obligation to pay child support under
14 any court order or administrative finding.

15 **Sec. 4.** RCW 26.26.335 and 2011 c 283 s 17 are each amended to read
16 as follows:

17 (1) After the period for rescission under RCW 26.26.330 has
18 expired, a signatory of an acknowledgment or denial of paternity may
19 commence a proceeding to challenge the acknowledgment or denial only:

20 (a) On the basis of fraud, duress, or material mistake of fact((+))
21 and

22 ((+b)) within four years after the acknowledgment or denial is
23 filed with the state registrar of vital statistics. In actions
24 commenced more than two years after the birth of the child, the child
25 must be made a party to the action; or

26 (b) If the man challenging the acknowledgment of paternity did not
27 know that he was not the genetic father of the child, regardless of
28 whether there was fraud, duress, or material mistake of fact, or
29 whether the man held out the child as his own or provided financial
30 support for the child. A challenge under this subsection (1)(b) may be
31 commenced under section 1 of this act.

32 (2) A party challenging an acknowledgment or denial of paternity
33 has the burden of proof.

34 **Sec. 5.** RCW 26.26.530 and 2011 c 283 s 32 are each amended to read
35 as follows:

36 (1) Except as otherwise provided in subsection (2) of this section,

1 a proceeding brought by a presumed parent, the person with a parent-
2 child relationship with the child, or another individual to adjudicate
3 the parentage of a child having a presumed parent must be commenced not
4 later than four years after the birth of the child. If an action is
5 commenced more than two years after the birth of the child, the child
6 must be made a party to the action.

7 (2) A proceeding seeking to disprove the parent-child relationship
8 between a child and the child's presumed parent may be maintained at
9 any time if the court determines that:

10 (a) The presumed parent and the person who has a parent-child
11 relationship with the child neither cohabited nor engaged in sexual
12 intercourse with each other during the probable time of conception and
13 the presumed parent never held out the child as his or her own; or

14 (b) Genetic testing that satisfies the requirements of RCW
15 26.26.410 excludes the presumed father as the genetic father of the
16 child, regardless of whether the presumed father cohabited or engaged
17 in sexual intercourse with the person who has a parent-child
18 relationship with the child during the probable time of conception,
19 held out the child as his own, or provided financial support for the
20 child and the petition to challenge paternity is brought under section
21 1 of this act. This subsection (2)(b) does not apply if the man is the
22 adoptive father of the child or consented to assisted reproduction with
23 another person with the intent to be the parent of the child born.

24 **Sec. 6.** RCW 26.26.535 and 2011 c 283 s 33 are each amended to read
25 as follows:

26 (1) Except as provided in subsection (6) of this section, in a
27 proceeding to adjudicate parentage under circumstances described in RCW
28 26.26.530 or in RCW 26.26.540, a court may deny a motion seeking an
29 order for genetic testing of the mother or father, the child, and the
30 presumed or acknowledged father if the court determines that:

31 (a)((+i)) The conduct of the mother or father or the presumed or
32 acknowledged parent estops that party from denying parentage; ((and
33 (ii) ~~It would be inequitable to disprove the parent-child~~
34 ~~relationship between the child and the presumed or acknowledged~~
35 ~~parent;~~) or

36 (b) The child was conceived through assisted reproduction.

1 (2) In determining whether to deny a motion to seek an order for
2 genetic testing under subsection (1)(a) of this section, the court
3 shall ~~((consider the best interest of the child, including the~~
4 ~~following factors:~~

5 ~~(a) The length of time between the proceeding to adjudicate~~
6 ~~parentage and the time that the presumed or acknowledged parent was~~
7 ~~placed on notice that he or she might not be the genetic parent;~~

8 ~~(b) The length of time during which the presumed or acknowledged~~
9 ~~parent has assumed the role of parent of the child;~~

10 ~~(c) The facts surrounding the presumed or acknowledged parent's~~
11 ~~discovery of his or her possible nonparentage;~~

12 ~~(d) The nature of the relationship between the child and the~~
13 ~~presumed or acknowledged parent;~~

14 ~~(e) The age of the child;~~

15 ~~(f) The harm that may result to the child if parentage is~~
16 ~~successfully disproved;~~

17 ~~(g) The nature of the relationship between the child and any~~
18 ~~alleged parent;~~

19 ~~(h) The extent to which the passage of time reduces the chances of~~
20 ~~establishing the parentage of another person and a child support~~
21 ~~obligation in favor of the child; and~~

22 ~~(i) Other factors that may affect the equities arising from the~~
23 ~~disruption of the parent-child relationship between the child and the~~
24 ~~presumed or acknowledged parent or the chance of other harm to the~~
25 ~~child)) presume that it is in the best interest of the child to~~
26 ~~accurately determine the child's parentage as soon as possible. A~~
27 ~~party may rebut this presumption with a showing by clear and convincing~~
28 ~~evidence that it is not in the child's best interest to determine the~~
29 ~~child's parentage.~~

30 (3) In a proceeding involving the application of this section, a
31 minor or incapacitated child must be represented by a guardian ad
32 litem.

33 (4) A denial of a motion seeking an order for genetic testing under
34 subsection (1)(a) of this section must be based on clear and convincing
35 evidence.

36 (5) If the court denies a motion seeking an order for genetic
37 testing under subsection (1)(a) of this section, it shall issue an

1 order adjudicating the presumed or acknowledged parent to be the parent
2 of the child supported by findings of fact and conclusions of law.

3 (6) The court may not deny genetic testing if the presumed father
4 did not know that he was not the genetic father of the child and has
5 filed a petition to challenge paternity under section 1 of this act.

6 **Sec. 7.** RCW 26.26.600 and 2011 c 283 s 42 are each amended to read
7 as follows:

8 The court shall apply the following rules to adjudicate the
9 parentage of a child:

10 (1) Except as provided in subsection (5) of this section, the
11 parentage of a child having a presumed or adjudicated parent or an
12 acknowledged father may be disproved only by admissible results of
13 genetic testing excluding that person as the parent of the child or
14 identifying another man as the father of the child.

15 (2) Unless the results of genetic testing are admitted to rebut
16 other results of genetic testing, the man identified as the father of
17 the child under RCW 26.26.420 must be adjudicated the father of the
18 child.

19 (3) If the court finds that genetic testing under RCW 26.26.420
20 neither identifies nor excludes a man as the father of a child, the
21 court may not dismiss the proceeding. In that event, the results of
22 genetic testing, and other evidence, are admissible to adjudicate the
23 issue of paternity.

24 ~~(4) ((Unless the results of genetic testing are admitted to rebut~~
25 ~~other results of genetic testing,))~~ A man excluded as the father of a
26 child by genetic testing must be adjudicated not to be the father of
27 the child.

28 (5) Subsections (1) through (4) of this section do not apply when
29 the child was conceived through assisted reproduction. The parentage
30 of a child conceived through assisted reproduction may be disproved
31 only by admissible evidence showing the intent of the presumed,
32 acknowledged, or adjudicated parent and the other parent.

33 **Sec. 8.** RCW 26.26.405 and 2011 c 283 s 22 are each amended to read
34 as follows:

35 (1) Except as otherwise provided in this section and RCW 26.26.410

1 through 26.26.630, the court shall order the child and other designated
2 individuals to submit to genetic testing if the request for testing is
3 supported by the sworn statement of a party to the proceeding:

4 (a) Alleging paternity and stating facts establishing a reasonable
5 probability of the requisite sexual contact between the individuals; or

6 (b) Denying paternity and stating facts establishing a possibility
7 that sexual contact between the individuals, if any, did not result in
8 the conception of the child, or stating facts that the party denying
9 paternity did not know he was not the genetic father of the child.

10 (2) A support enforcement agency may order genetic testing only if
11 there is no presumed or adjudicated parent and no acknowledged father.

12 (3) If a request for genetic testing of a child is made before
13 birth, the court or support enforcement agency may not order in utero
14 testing.

15 (4) If two or more persons are subject to court-ordered genetic
16 testing, the testing may be ordered concurrently or sequentially.

17 (5) This section does not apply when the child was conceived
18 through assisted reproduction.

--- END ---