
SENATE BILL 5006

State of Washington

64th Legislature

2015 Regular Session

By Senator Angel

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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
9 RCW 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
14 if genetic testing that complies with RCW 26.26.410 shows by clear
15 and convincing evidence that the man is not the genetic father of the
16 child.

17 (2) A man who, pursuant to subsection (1) of this section,
18 successfully proves that he is not the genetic father of the child
19 may file a valid denial of paternity with the state registrar of
20 vital statistics and, from the date of the filing, shall be
21 discharged from all of the rights and duties of a parent, including

1 any obligation to pay child support under any court order or
2 administrative finding.

3 (3) This section does not apply if:

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

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

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

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

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

24 (1) A presumed father of a child may sign a denial of his
25 paternity. Except as provided in subsection (2) of this section, the
26 denial is valid only if:

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

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

31 ~~((3))~~ (c) The presumed father has not previously:

32 ~~((a))~~ (i) Acknowledged his paternity, unless the previous
33 acknowledgment has been rescinded under RCW 26.26.330 or successfully
34 challenged under RCW 26.26.335; or

35 ~~((b))~~ (ii) Been adjudicated to be the father of the child.

36 (2) A denial of paternity may be signed at any time and is valid
37 if signed by a man who has successfully proven, pursuant to section 1
38 of this act, that he is not the genetic father of the child.

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

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

15 **Sec. 4.** RCW 26.26.335 and 2011 c 283 s 17 are each amended to
16 read 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
21 fact~~((+))~~ 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
27 not know that he was not the genetic father of the child, regardless
28 of 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
31 be 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
35 read as follows:

36 (1) Except as otherwise provided in subsection (2) of this
37 section, a proceeding brought by a presumed parent, the person with a
38 parent-child relationship with the child, or another individual to

1 adjudicate the parentage of a child having a presumed parent must be
2 commenced not later than four years after the birth of the child. If
3 an action is commenced more than two years after the birth of the
4 child, the child must be made a party to the action.

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

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

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

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

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

37 (2) In determining whether to deny a motion to seek an order for
38 genetic testing under subsection (1)(a) of this section, the court

1 shall (~~consider the best interest of the child, including the~~
2 ~~following factors:~~

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

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

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

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

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

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

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

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

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

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

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

34 (5) If the court denies a motion seeking an order for genetic
35 testing under subsection (1)(a) of this section, it shall issue an
36 order adjudicating the presumed or acknowledged parent to be the
37 parent of the child supported by findings of fact and conclusions of
38 law.

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

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

6 The court shall apply the following rules to adjudicate the
7 parentage of a child:

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

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

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

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

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

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

33 (1) Except as otherwise provided in this section and RCW
34 26.26.410 through 26.26.630, the court shall order the child and
35 other designated individuals to submit to genetic testing if the
36 request for testing is supported by the sworn statement of a party to
37 the proceeding:

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

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

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

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