

LAWS OF DELAWARE
VOLUME 83
CHAPTER 516
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 432

AN ACT TO AMEND TITLES 13 AND 16 OF THE DELAWARE CODE RELATING TO VOLUNTARY ACKNOWLEDGMENTS OF PATERNITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Sections 8-302 and 8-304, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-302. Execution of acknowledgment of paternity.

(a) An acknowledgment of paternity must:

- (1) Be in a record;
- (2) Be signed, or otherwise authenticated, under penalty of perjury by the mother and by the man seeking to establish his paternity;
- (3) State that the child whose paternity is being acknowledged:
 - (i) Does not have a presumed father, or has a presumed father whose full name is stated; and
 - (ii) Does not have another acknowledged or adjudicated father.
- (4) State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing; and
- (5) State that the signatories understand that the acknowledgement is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgement is permitted only under limited circumstances and is barred after 2 years.

(b) An acknowledgment of paternity is void if it:

- (1) States that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the Office of Vital Statistics;
- (2) States that another man is an acknowledged or adjudicated father; ~~or~~
- (3) Falsely denies the existence of a presumed, acknowledged or adjudicated father of the ~~child~~ child;

or

(4) Is signed by a mother or a man seeking to establish his paternity who is a minor at the time of signing the acknowledgment of paternity.

(c) A presumed father may sign or otherwise authenticate an acknowledgment of paternity.

§ 8-304. Rules for acknowledgement and denial of paternity.

(a) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are filed.

(b) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(c) Subject to subsection (a) of this section, an acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the Office of Vital Statistics, whichever occurs later.

~~(d) An acknowledgment of paternity or denial of paternity signed by a minor is valid if it is otherwise in compliance with this chapter.~~

Section 2. Amend Section 3121, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3121. Registration of births.

(a) A certificate of birth for each live birth which occurs in this State shall be filed with the Office of Vital Statistics, or as otherwise directed by the State Registrar, within 10 days after such birth and shall be registered if it has been completed and filed in accordance with this section.

(b) When a birth occurs in an institution or en route thereto, the person in charge of the institution or the person's designated representative shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (a) of this section or as otherwise directed by the State Registrar within the required 10 days. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth within 72 hours after the birth. If the physician, or other person in attendance, does not certify to the facts of birth within the 72-hour period, the person in charge of the institution shall complete and sign the certificate.

(c) When a child is born to an unmarried woman in an institution, the person responsible for completing the birth certificate, or the person's designated representative, ~~shall:~~ shall do all of the following:

(1) Provide written information prepared by the Division of Child Support Services to the mother and the putative father, if he is present, explaining the rights and responsibilities of acknowledging ~~paternity;~~ paternity.

(2) Provide the mother and the putative father the opportunity to sign an acknowledgment of paternity as described in subsection (d) of this section and provide notary public services for this ~~purpose;~~ purpose.

(3) Provide the mother and the putative father with a copy of the signed and notarized ~~acknowledgment;~~ and acknowledgment.

(4) File the signed and notarized acknowledgment with the Office of Vital Statistics within 10 days after execution. The Office of Vital Statistics shall send a copy of the acknowledgment to the Division of Child Support Services within 7 days after it receives the acknowledgment.

(d) The acknowledgment provided for in subsection (c) of this section shall ~~contain:~~ contain all of the following:

(1) The mother's address and Social Security number, her statement that the putative father is the only possible father and her consent to the acknowledgment of ~~paternity;~~ paternity.

(2) The putative father's address and Social Security number and his statement that he is the biological father of the ~~child;~~ child.

(3) Subject to the provisions of subchapter III of Chapter 8 of Title 13, their acknowledgment of a right to blood, tissue or other genetic testing to determine paternity or nonpaternity and of the right to otherwise dispute paternity in any civil or criminal action in which the paternity of the child by the putative father is an element of the claim for relief or a ~~defense~~; defense.

(4) A statement of the presumptive effect of the acknowledgment of paternity under § 8-305 of Title 13; 13.

(5) A statement of the rights and responsibilities of acknowledging paternity, including that the acknowledgment of paternity establishes the duty of both parties to support the child, is the basis for the entry of a child support order without further proceedings to establish paternity, may be the basis for the putative father establishing custody and visitation rights, establishes inheritance rights and may be the basis for requiring notice to the putative father prior to an ~~adoption~~; and adoption.

(6) Instructions for filing the acknowledgment with the Office of Vital ~~Statistics~~; and Statistics.

(7) The acknowledgment of both the putative father and the mother that they have been notified, orally and in writing of each of the items listed in paragraphs (d)(1) through (6) of this section before signing the acknowledgment of paternity.

(e) Subsection (c) of this section does not apply when a child is born to an unmarried woman in an institution and the mother or putative father is a minor. The Office of Vital Statistics may not accept an acknowledgment of paternity as described in subsection (d) of this section if signed by a mother or putative father who is a minor. If the mother or putative father is a minor, paternity shall be determined in accordance with Chapter 8 of Title 13.

~~(e)~~ (f) When a birth occurs outside an institution, the certificate shall note whether such a birth was preplanned to occur outside of an institution, the type of license held by any midwife in attendance, and the certificate shall be prepared and filed by 1 of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth, or in the absence of such a ~~person~~; person.

(2) The midwife in attendance at or immediately after the birth; or in the absence of such a ~~person~~; person.

(3) Any other person in attendance at or immediately after the birth, or in the absence of such a ~~person~~; person.

(4) The father, the mother, or, in the absence of the father and the inability of the mother, the State Registrar or a duly authorized representative.

~~(f)~~ (g) When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this State, the birth shall be registered in this State and the place where it is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this State, the birth shall be registered in this State but the certificate shall show the actual place of birth insofar as can be determined.

~~(g)~~ (h)(1) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by Family Court.

(2) If the mother was not married at the time of either conception or birth or between conception and birth, the name of the father shall not be entered on the certificate without a court order from Family Court or an acknowledgment of paternity which is signed by both parents and their signatures notarized.

(3) In any case in which paternity of a child is determined by Family Court, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

~~(h)~~ (i) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within 10 days prescribed in this section.

~~(i)~~ (j) The time within which a supplementary report furnishing information omitted from the original certificate may be returned for the purpose of completing the certificate shall not be more than 6 months from the date of birth. Certificates of birth completed by a supplementary report shall not be considered delayed or altered.

Section 3. This Act takes effect 180 days after enactment into law.

Approved October 26, 2022