

REVOCATION OF PARENTAGE ACT (EXCERPT)
Act 159 of 2012

722.1441 Determination that child born out of wedlock.

Sec. 11.

(1) If a child has a presumed parent, a court may determine that the child is born out of wedlock for the purpose of establishing the child's parentage if an action is filed by the child's mother and either of the following applies:

(a) All of the following apply:

(i) The mother identifies the alleged father by name in the complaint or motion commencing the action.

(ii) The presumed parent, the alleged father, and the child's mother at some time mutually and openly acknowledged a biological relationship between the alleged father and the child.

(iii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.

(iv) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(b) All of the following apply:

(i) The mother identifies the alleged father by name in the complaint or motion commencing the action.

(ii) Either of the following applies:

(A) The presumed parent, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.

(B) The child is less than 3 years of age and the presumed parent lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.

(iii) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(2) If a child has a presumed parent, a court may determine that the child is born out of wedlock for the purpose of establishing the child's parentage if an action is filed by the presumed parent within 3 years after the child's birth or if the presumed parent raises the issue in an action for divorce or separate maintenance between the presumed parent and the mother. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.

(3) If a child has a presumed parent, a court may determine that the child is born out of wedlock for the purpose of establishing the child's parentage if an action is filed by an alleged father and any of the following applies:

(a) All of the following apply:

(i) The alleged father did not know or have reason to know that the mother was married at the time of conception.

(ii) The presumed parent, the alleged father, and the child's mother at some time mutually and openly acknowledged a biological relationship between the alleged father and the child.

(iii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.

(iv) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(b) All of the following apply:

(i) The alleged father did not know or have reason to know that the mother was married at the time of conception.

(ii) Either of the following applies:

(A) The presumed parent, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.

(B) The child is less than 3 years of age and the presumed parent lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.

(iii) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(c) Both of the following apply:

(i) The mother was not married at the time of conception.

(ii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.

(4) If a child has a presumed parent and the child is being supported in whole or in part by public assistance, a court may determine that the child is born out of wedlock for the purpose of establishing the child's parentage if an action is filed by the department of human services and both of the following apply:

(a) Either of the following applies:

(i) The presumed parent, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.

(ii) The child is less than 3 years of age and the presumed parent lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.

(b) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(5) An action under this section may be brought by a complaint filed in an original action or by a motion filed in an existing action, as appropriate under this act and rules adopted by the supreme court.

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