Juvenile Justice & Family Law Committee

HB 3092

Brief Description: Providing time for signing denial of paternity.

Sponsors: Representative Delvin.

Brief Summary of Bill

- Clarifies when a court proceeding to rescind an acknowledgement or denial of paternity may be commenced.

- Adds a time limitation to when a denial of paternity by a presumed father may be valid.

Hearing Date: 2/4/04

Staff: Sonja Hallum (786-7092).

Background:

The parent-child relationship is governed by the Uniform Parentage Act (UPA). The UPA was adopted by Washington in 1975 and became effective in 1976. In 2002, the act was repealed and the UPA of 2002 was adopted. The new act was significantly the same as the older version, but made changes to the procedures for establishing paternity. The UPA statute has become virtually the exclusive procedure used for the determination of paternity.

To determine the existence of a father-child relationship, the UPA distinguishes between a presumed father, an acknowledged father, and an adjudicated father.

A man is presumed to be the father of a child if:
(a) He and the child's mother are married and the child is born during the marriage;
(b) He and the child's mother were married and the child is born within 300 days after the marriage ends;
(c) Before the child's birth, he and the child's mother have married each other, but the attempted marriage may be invalid, and the child is born during the "marriage" or within 300 days after the "marriage" ends; or
(d) After the child's birth, he and the child's mother have married, or attempted to marry, and either he acknowledged his paternity in writing, consented to be named as the father on the birth certificate, or he is obligated to support the child under a written promise or court order.

A presumed father may contest the presumption through a proceeding in court to adjudicate parentage or through the statutory process of denial of paternity. Under the current denial of paternity statute, a presumed father may sign a denial of paternity. The denial of paternity is only valid if:

(a) An acknowledgment of paternity signed by another man is filed with the state registrar;

(b) The denial is in the record and has been signed under the penalty of perjury; and

(c) The presumed father has not previously acknowledge paternity or been adjudicated the father by a court.

Under the statutory denial of paternity process, a court proceeding to adjudicate parentage is not required. Rather, the denial becomes effective upon the birth of the child or the filing of the document with the state registrar of vital statistics, whichever occurs later.

A person who has signed an acknowledgement or denial of paternity may rescind the acknowlegement or denial of paternity by commencing a court proceeding to rescind before the earlier of (a) 60 days after the effective date of the filing of the acknowledgement or denial, or b) the date of the first hearing in a proceeding to adjudicate an issue related to the child.

Summary of Bill:

Rescission:

The bill removes language in the statute authorizing rescission of the acknowledgement or denial of paternity. The current law permits the rescission upon the earlier of two dates. One of the two dates is 60 days following the effective date of the filing of the acknowledgment or denial. Because the effective date of the acknowledgment or denial can be either the birth of the child or the filing of the acknowledgment or denial, the current language of the rescission statute may not be accurate. The removal of the words "of the filing" may clarify the meaning of "effective date."

Denial of Paternity:

The bill adds a time limitation to when the denial of paternity is valid. Currently, there is no time limitation upon when a denial of paternity for a presumed father may be found to be valid. The only time limitations on contesting paternity are in relation to proceedings to adjudicate parentage. Because the statute establishes a process for denial of paternity rather than requiring a proceeding, the time limitations for proceeding to adjudicate parentage do not apply.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.