

Legislative Analysis



PROBATE CODE AMENDMENTS RELATED TO RESPONSIBLE FATHER REGISTRY

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House Bill 4660 (Substitute H-1)
Sponsor: Rep. Mike Shirkey

House Bill 4661 (Substitute H-1)
Sponsor: Rep. Cindy Denby

House Bill 4662 (Substitute H-1)
Sponsor: Rep. Eileen Kowall
Committee: Families, Children, and Seniors

Complete to 6-4-13

A SUMMARY OF HOUSE BILL 4660- 4662 AS REPORTED FROM COMMITTEE

Each of these bills would amend the Adoption Code (Chapter X of the Probate Code of 1939) and deal with issues of adoption and the termination of parental rights. They are each tie-barred to House Bill 4659, which would amend the Public Health Code to require the Department of Community Health to administer and maintain a "Responsible Father Registry."

Under House Bill 4659, the department would have to provide for an online registration process for the registry that would allow a man register with the registry when he believes he may be the father of a child. Generally speaking, a child placing agency or adoptive parent would have to give notice of a proceeding for the adoption of a child or the termination of parental rights to a man who had registered in a timely manner. A man who registered in a timely manner would be entitled to notice of any hearing involving the child who was the subject of the registration to determine the father's identity of that child and any hearing to determine or terminate the father's parental rights to that child.

House Bills 4660-4662 would make related amendments to the Adoption Code, and do the following:

House Bill 4660

Currently, generally speaking, if a child is born out of wedlock and the release of the biological father cannot be obtained, the child cannot be placed for adoption until the parental rights of the father are terminated by the court. The bill would make this read, if "the release or consent of the biological father cannot be obtained or the biological father has registered with the Responsible Father Registry." (New language underlined.)

Notice of Hearing

Section 36 of the code deals with cases where a child is claimed to be born out of wedlock and the mother executes or proposes to execute a release or consent relinquishing her rights to the child or joins in a petition for adoption filed by her husband and the release or consent of the natural father cannot be obtained. In such a case the judge must hold a hearing to determine whether the child was born out of wedlock, to determine the identity of the father, and to determine or terminate the rights of the father.

The code prescribes who the notice of such a hearing must be sent to; the bill would replace that language and specify that notice must be served upon a putative father who has registered with the Responsible Father Registry.

If the court found that the child's father registered in a timely manner but did not receive timely notice or consent and had neither waived his right to notice of hearing nor was present at the hearing, the court would have to adjourn until he was served with a notice of hearing.

Notice of Intent to Claim Paternity

The court would need to request the vital records division of the Department of Community Health to send to the court a copy of any information regarding a putative father who had registered with the Responsible Father Registry.

Testimony of the Mother

The court must receive evidence as to the identity of the father of a child. Under the bill, the court could receive, in lieu of the mother's live testimony, an affidavit or a verified written declaration from the mother as evidence of the identity of the child's father.

House Bill 4661

The bill would specify that a man who desired to be notified of a proceeding for adoption of a child or termination of parental rights regarding a child he may have fathered would have to register with the Responsible Father Registry before the child's birth or not more than five days, excluding weekends and holidays, after the child's birth.

The bill would replace existing language about paternity and instead specify that a man registered with the Responsible Father Registry would be assumed to be the father of the child unless the mother denied that the claimant was the father. It also specifies that registering with the Registry creates a rebuttable presumption as to paternity of the child for purposes of dependency or neglect proceedings.

A man who registered in a timely manner would be entitled to any notice of hearing involving that child to determine the identity of the father and any hearing to determine or terminate his parental rights to the child.

House Bill 4662

The bill would specify that for a child born on or after January 1, 2014, if the court was notified that the person it determined to be a child's father has not filed in a timely manner with the Responsible Father Registry, the court could permanently terminate the putative father's parental rights.

The bills would take effect January 1, 2014.

FISCAL IMPACT:

House Bills 4660-4662 could increase costs to the state and should have a negligible fiscal impact to local units of government. Over 80% of adoptive placements and finalizations are administered through private child placing agencies, and the rates to the private agencies include incentive levels based on the number of months it takes for the adoption to be finalized. If one of the delays is identifying the putative father, then these bills (along with House Bill 4659) could speed up the adoption finalization process. This means more of the payments to the private child placing agencies will be at the higher incentive payment levels. The payments increase between \$1,000- \$1,500 for each step increase.

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