

SENATE FILE NO. SF0137

Disestablishment of paternity.

Sponsored by: Senator(s) Ross and Representative(s)
Buchanan and Iekel

A BILL

for

1 AN ACT relating to domestic relations; providing procedures
2 for the disestablishment of paternity as specified; and
3 providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 14-2-823(e) and by creating new
8 subsections (f) through (p) is amended to read:

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10 **14-2-823. Binding effect of determination of**
11 **parentage.**

12

13 (e) ~~A party to~~ An adjudication of the paternity of a
14 child issued by a court of this state or by the filing of an
15 acknowledgment of paternity pursuant to W.S. 14-2-605
16 without the benefit of genetic testing, may ~~challenge~~ be

1 challenged by a party to the adjudication only ~~under the~~
2 ~~laws of this state relating to appeal, vacation of judgments~~
3 ~~or other judicial review~~ if post-adjudication genetic
4 testing proves that the adjudicated father is not the
5 biological father of the child pursuant to W.S. 14-2-817.

6 This section does not apply to any of the following:

7
8 (i) A paternity determination made in or by a
9 foreign jurisdiction or a paternity determination which has
10 been made in or by a foreign jurisdiction and registered in
11 this state in accordance with the Uniform Interstate Family
12 Support Act;

13
14 (ii) A paternity determination based upon a court
15 or administrative order of this state if the order was
16 entered based upon blood or genetic test results which
17 demonstrate that the alleged father was not excluded and
18 that the probability of the alleged father's paternity was
19 ninety-nine percent (99%) or higher.

20
21 (f) A petition for disestablishment of paternity shall
22 be filed:

1 (i) In the district court in which the paternity
2 order is filed;

3
4 (ii) In the case of an adjudication as a result
5 of the filing of an acknowledgment of paternity pursuant to
6 W.S. 14-2-605, the petition shall be filed in accordance
7 with W.S. 14-2-608 and 14-2-609 and within the limitations
8 of W.S. 14-2-809.

9
10 (iii) In the case of an adjudication issued by a
11 court of this state, the petition shall be filed only by the
12 mother of the child, the adjudicated father of the child,
13 the child, if the child was a party to the adjudication, or
14 the legal representative of any of these parties. A
15 petition filed by an individual who is not a party to the
16 adjudication shall be filed pursuant to W.S. 14-2-809. The
17 petition under this subsection shall be filed no later than
18 two (2) years after the effective date of the adjudication.

19
20 (g) The court shall appoint an attorney to represent
21 the best interests of a child if the court finds that the
22 best interests of the child is not adequately represented.
23 In cases concerning an adjudication of paternity pursuant to
24 subsection (c) of this section, the court shall appoint an

1 attorney to represent the best interests of the child. In
2 determining the best interests of the child, the court shall
3 consider the following factors:

4
5 (i) The length of time between the proceeding to
6 adjudicate parentage and the time that the adjudicated
7 father was placed on notice that he might not be the genetic
8 father;

9
10 (ii) The length of time during which the
11 adjudicated father has assumed the role of the father of the
12 child;

13
14 (iii) The facts surrounding the adjudicated
15 father's discovery of his possible nonpaternity;

16
17 (iv) The nature of the relationship between the
18 child and the adjudicated father;

19
20 (v) The age of the child;

21
22 (vi) The harm that may result to the child if
23 adjudicated paternity is successfully disproved;

24

1 (vii) The nature of the relationship between the
2 child and any alleged father;

3
4 (viii) The extent to which the passage of time
5 reduces the chances of establishing the paternity of another
6 man and a child support obligation in favor of the child;
7 and

8
9 (ix) Other factors that may affect the equities
10 arising from the disruption of the father-child relationship
11 between the child and the adjudicated father or the chance
12 of other harm to the child.

13
14 (h) The court may order genetic testing pursuant to
15 article 7 of this chapter.

16
17 (j) The court may grant relief on the petition filed
18 in accordance with this section upon a finding by the court
19 of all of the following:

20
21 (i) The relief sought is in the best interests of
22 the child pursuant to the factors in this section;

23

1 (ii) The genetic test upon which the relief is
2 granted was properly conducted;

3
4 (iii) The adjudicated father has not adopted the
5 child;

6
7 (iv) The child is not a child whose paternity is
8 governed by article 9 of this chapter;

9
10 (v) The adjudicated father did not act to prevent
11 the biological father of the child from asserting his
12 paternal rights with respect to the child.

13
14 (k) If the court determines that test results
15 conducted in accordance with W.S. 14-2-703 and 14-2-704
16 exclude the adjudicated father as the biological father, the
17 court may nonetheless dismiss the action to overcome
18 paternity and affirm the paternity adjudication if:

19
20 (i) The adjudicated father requests that
21 paternity be preserved and that the parent-child
22 relationship be continued; or

23

1 (ii) The court finds that it is in the best
2 interests of the child to preserve paternity. In
3 determining the best interests of the child, the court shall
4 consider all of the factors listed in this section.

5
6 (m) If the court finds that the adjudication of
7 paternity should be vacated, in accordance with all of the
8 conditions prescribed, the court shall enter an order which
9 provides all of the following:

10
11 (i) That the disestablishment of paternity is in
12 the best interests of the child pursuant to the factors in
13 this section;

14
15 (ii) That the adjudicated father is not the
16 biological father of the child;

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18 (iii) That the adjudicated father's parental
19 rights and responsibilities are terminated as of the date of
20 the filing of the order;

21
22 (iv) That the birth records agency shall amend
23 the child's birth certificate by removing the adjudicated

1 father's name, if it appears thereon, and issue a new birth
2 certificate for the child;

3
4 (v) That the adjudicated father is relieved of
5 any and all future support obligations owed on behalf of the
6 child from the date that the order determining that the
7 established father is not the biological father is filed;

8
9 (vi) That any unpaid support due prior to the
10 date the order determining that the adjudicated father is
11 not the biological father is filed, is due and owing;

12
13 (vii) That the adjudicated father has no right to
14 reimbursement of past child support paid to the mother, the
15 state of Wyoming or any other assignee of child support.

16
17 (n) Participation of the Title IV-D agency in an
18 action brought under this section shall be limited as
19 follows:

20
21 (i) The Title IV-D agency shall only participate
22 in actions if services are being provided by the Title IV-D
23 agency pursuant to title 20 chapter 6 of the Wyoming
24 Statutes;

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(ii) When services are being provided by the Title IV-D agency under title 20 chapter 6 of the Wyoming Statutes, the Title IV-D agency may assist in obtaining genetic tests pursuant to article 7 of this chapter;

(iii) An attorney acting on behalf of the Title IV-D agency represents the state of Wyoming in any action under this section. The Title IV-D agency's attorney is not the legal representative of the mother, the adjudicated father or the child in any action brought under this section.

(o) The costs of genetic testing, the fee of any guardian ad item and all court costs shall be paid by the person bringing the action to overcome paternity unless otherwise provided by law.

(p) A man presumed to be the father of a child without adjudication of paternity may bring a proceeding to adjudicate paternity pursuant to W.S. 14-2-807.

1 **Section 2.** This act is effective July 1, 2005.

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3 (END)