

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families -- This bill strengthens families inheritance rights by clarify that an adopted person has the same rights of inheritance as a blood descendant.

B. EFFECT OF PROPOSED CHANGES:

Current Law

Florida has established a Putative Father Registry ("Registry") to attempt to preserve the rights of unmarried biological fathers in adoption cases. The Registry is established and operated through the Office of Vital Statistics of the Department of Health. If a man is concerned that he may be the father of a child born or about to be born to a woman, and that man wishes to establish parental rights, he must file as a "registrant" with the Registry.¹

By filing with the Registry, the potential father is claiming paternity for the child and confirms his willingness to support the child. Additionally, he consents to DNA testing, and may ultimately be required to pay child support. A claim of paternity may be filed at any time prior to the child's birth, but a claim of paternity may not be filed after the date a petition is filed for termination of parental rights.²

The possible father may change his mind and prior to the birth of the child execute a notarized revocation of the claim of paternity.³ Once that revocation is received, the claim of paternity is deemed null and void. Plus, if a court determines that a registrant is not the father of a minor, the court will order the man's name removed from the registry.⁴

All hearings and records in adoption proceedings are confidential.⁵ Court hearings are held in closed court, and all papers and records pertaining to the adoption, whether part of the permanent record of the court or a file in the office of an adoption entity, are confidential and subject to inspection only upon court order.

Generally, identifying information regarding the birth parents, adoptive parents, and adoptee may not be disclosed unless that person has authorized in writing the release of that information. Yet, a court may, upon petition of an adult adoptee, for good cause shown, appoint an intermediary or a licensed child-placing agency to contact a birth parent who has not registered with the adoption registry and advise them of the availability of the registry.

The statute of repose provides that an action to set aside a judgment of adoption or a judgment terminating parental rights may not be filed more than one year after the entry of the judgment terminating parental rights.

Effect of Bill

In a proceeding to terminate parental rights, the father must provide the Office of Vital Statistics of the Department of Health ("Office") with a copy of that petition. The Office may not record a claim of paternity after the date a petition has been filed.

¹ Section 63.054 (1), F.S.

² *Id.*

³ Section 63.054 (5), F.S.

⁴ *Id.*

⁵ Section 63.162, F.S.

The bill directs that if a court determines that a registrant is not the father of a child or has no parental rights; the court must order the Department to remove the registrant's name from the registry. Moreover, the bill corrects the provisions regarding who may execute an irrevocable affidavit of paternity.

Finally, the bill makes a change regarding inheritance rights. Except for the specific persons entitled to be given notice of an adoption, the interest which entitles a person to notice of an adoption must be direct, financial, and immediate and the person must show that he or she will gain or lose by the direct legal operation and effect of the judgment. A showing of an indirect, inconsequential, or contingent interest is inadequate and a person with this indirect interest lacks standing to set aside a judgment of adoption. This applies to all adoptions, including those in which a judgment of adoption has already been entered.

C. SECTION DIRECTORY:

Section 1 amends s. 63.054, F.S. to require notification of a filing of a petition for termination of parental rights.

Section 2 amends s. 63.062(4), F.S. relating to an affidavit of non-paternity.

Section 3 amends s. 63.182, F.S relating to the statute of repose.

Section 4 provides this bill will be effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Civil Justice Committee adopted one amendment to the bill. The amendment changed the following:

- In a proceeding to terminate parental rights, the father must provide the Office of Vital Statistics of the Department of Health ("Office") with a copy of that petition. The Office may not record a claim of paternity after the date a petition has been filed.
- Alters the provisions regarding who may execute an irrevocable affidavit of paternity.
- Directs that if a court determines that a registrant is not the father of a child or has no parental rights; the court must order the Department to remove the registrant's name from the registry.
- Makes a change regarding inheritance rights to clarify that an adopted person has the same rights of inheritance as a blood descendant.
- Removes the provision that would authorize the Department of Health to release an original sealed birth certificate on court order only to the Department of Children and Family Services.

The bill was then reported favorably.