

By Senator Soto

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1 A bill to be entitled
2 An act relating to parentage; amending s. 382.015,
3 F.S.; requiring the Department of Health to prepare,
4 file, and issue a new birth certificate under
5 specified circumstances; requiring the new birth
6 certificate to bear a specified reference; amending
7 ss. 382.013, 742.011, 742.091, 742.105, 742.11, and
8 742.13, F.S.; conforming provisions to changes made by
9 the act; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 382.015, Florida Statutes, is amended to
14 read:

15 382.015 New certificates of live birth; duty of clerks of
16 court and department.—The clerk of the court in which any
17 proceeding for adoption, annulment of an adoption, affirmation
18 of parental status, or determination of parentage ~~paternity~~ is
19 to be registered, shall within 30 days after the final
20 disposition, forward to the department a certified copy of the
21 court order, or a report of the proceedings upon a form to be
22 furnished by the department, together with sufficient
23 information to identify the original birth certificate and to
24 enable the preparation of a new birth certificate. The clerk of
25 the court shall implement a monitoring and quality control plan
26 to ensure that all judicial determinations of parentage
27 ~~paternity~~ are reported to the department in compliance with this
28 section. The department shall track parentage ~~paternity~~
29 determinations reported monthly by county, monitor compliance
30 with the 30-day timeframe, and report the data to the clerks of
31 the court quarterly.

32 (1) ADOPTION AND ANNULMENT OF ADOPTION.—

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33 (a) Upon receipt of the report or certified copy of an
34 adoption decree, together with the information necessary to
35 identify the original certificate of live birth, and establish a
36 new certificate, the department shall prepare and file a new
37 birth certificate, absent objection by the court decreeing the
38 adoption, the adoptive parents, or the adoptee if of legal age.
39 The certificate must ~~shall~~ bear the same file number as the
40 original birth certificate. All names and identifying
41 information relating to the adoptive parents entered on the new
42 certificate shall refer to the adoptive parents, but nothing in
43 the certificate shall refer to or designate the parents as being
44 adoptive. All other items not affected by adoption shall be
45 copied as on the original certificate, including the date of
46 registration and filing.

47 (b) Upon receipt of the report or certified copy of an
48 annulment-of-adoption decree, together with the sufficient
49 information to identify the original certificate of live birth,
50 the department shall, if a new certificate of birth was filed
51 following an adoption report or decree, remove the new
52 certificate and restore the original certificate to its original
53 place in the files, and the certificate so removed shall be
54 sealed by the department.

55 (c) Upon receipt of a report or certified copy of an
56 adoption decree or annulment-of-adoption decree for a person
57 born in another state, the department shall forward the report
58 or decree to the state of the registrant's birth. If the adoptee
59 was born in Canada, the department shall send a copy of the
60 report or decree to the appropriate birth registration authority
61 in Canada.

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62 (2) DETERMINATION OF PARENTAGE ~~PATERNITY~~.—Upon receipt of
63 the report, a certified copy of a final decree of determination
64 of parentage ~~paternity~~, or a certified copy of a final judgment
65 of dissolution of marriage which requires the former spouse
66 ~~husband~~ to pay child support for the child, together with
67 sufficient information to identify the original certificate of
68 live birth, the department shall prepare and file a new birth
69 certificate, which must ~~shall~~ bear the same file number as the
70 original birth certificate. The registrant's name shall be
71 entered as decreed by the court or as reflected in the final
72 judgment or support order. The names and identifying information
73 of the parents shall be entered as of the date of the
74 registrant's birth.

75 (3) AFFIRMATION OF PARENTAL STATUS.—Upon receipt of an
76 order of affirmation of parental status issued pursuant to s.
77 742.16, together with sufficient information to identify the
78 original certificate of live birth, the department shall prepare
79 and file a new birth certificate which must ~~shall~~ bear the same
80 file number as the original birth certificate. The names and
81 identifying information of the registrant's parents entered on
82 the new certificate shall be the commissioning couple, but the
83 new certificate may not make reference to or designate the
84 parents as the commissioning couple.

85 (4) SUBSTITUTION OF NEW CERTIFICATE OF BIRTH FOR ORIGINAL.—
86 When a new certificate of birth is prepared, the department
87 shall substitute the new certificate of birth for the original
88 certificate on file. All copies of the original certificate of
89 live birth in the custody of a local registrar or other state
90 custodian of vital records shall be forwarded to the State

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91 Registrar. Thereafter, when a certified copy of the certificate
92 of birth or portion thereof is issued, it must ~~shall~~ be a copy
93 of the new certificate of birth or portion thereof, except when
94 a court order requires issuance of a certified copy of the
95 original certificate of birth. In an adoption, change in
96 parentage ~~paternity~~, affirmation of parental status,
97 undetermined parentage, or court-ordered substitution, the
98 department shall place the original certificate of birth and all
99 papers pertaining thereto under seal, not to be broken except by
100 order of a court of competent jurisdiction or as otherwise
101 provided by law.

102 (5) FORM.—Except for certificates of foreign birth which
103 are registered as provided in s. 382.017, and delayed
104 certificates of birth which are registered as provided in ss.
105 382.019 and 382.0195, all original, new, or amended certificates
106 of live birth must ~~shall~~ be identical in form, regardless of the
107 marital status of the parents or the fact that the registrant is
108 adopted or of undetermined parentage.

109 (6) RULES.—The department shall adopt and enforce ~~all~~ rules
110 necessary to implement ~~for carrying out the provisions of this~~
111 section.

112 Section 2. Subsection (2) and paragraphs (a) and (b) of
113 subsection (3) of section 382.013, Florida Statutes, are amended
114 to read:

115 382.013 Birth registration.—A certificate for each live
116 birth that occurs in this state shall be filed within 5 days
117 after such birth with the local registrar of the district in
118 which the birth occurred and shall be registered by the local
119 registrar if the certificate has been completed and filed in

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120 accordance with this chapter and adopted rules. The information
121 regarding registered births shall be used for comparison with
122 information in the state case registry, as defined in chapter
123 61.

124 (2) PARENTAGE ~~PATERNITY~~.—

125 (a) If the mother is married at the time of birth, the name
126 of the spouse must ~~husband shall~~ be entered on the birth
127 certificate as a parent ~~the father~~ of the child, unless
128 parentage ~~paternity~~ has been determined otherwise by a court of
129 competent jurisdiction.

130 (b) Notwithstanding paragraph (a), if the spouse ~~husband~~ of
131 the mother dies while the mother is pregnant but before the
132 birth of the child, the name of the deceased spouse must ~~husband~~
133 ~~shall~~ be entered on the birth certificate as a parent ~~the father~~
134 of the child, unless parentage ~~paternity~~ has been determined
135 otherwise by a court of competent jurisdiction.

136 (c) If the mother is not married at the time of the birth,
137 the name of the father may not be entered on the birth
138 certificate without the execution of an affidavit signed by both
139 the mother and the person to be named as the father. The
140 facility shall give notice orally or through the use of video or
141 audio equipment, and in writing, of the alternatives to, the
142 legal consequences of, and the rights, including, if one parent
143 is a minor, any rights afforded due to minority status, and
144 responsibilities that arise from signing an acknowledgment of
145 paternity, as well as information provided by the Title IV-D
146 agency established pursuant to s. 409.2557, regarding the
147 benefits of voluntary establishment of parentage ~~paternity~~. Upon
148 request of the mother and the person to be named as the father,

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149 the facility shall assist in the execution of the affidavit, a
150 notarized voluntary acknowledgment of parentage ~~paternity~~, or a
151 voluntary acknowledgment of parentage ~~paternity~~ that is
152 witnessed by two individuals and signed under penalty of perjury
153 as specified by s. 92.525(2).

154 (d) If the parentage ~~paternity~~ of the child is determined
155 by a court of competent jurisdiction as provided under s.
156 382.015 or there is a final judgment of dissolution of marriage
157 which requires the former spouse ~~husband~~ to pay child support
158 for the child, the name of the former spouse ~~father~~ and the
159 surname of the child shall be entered on the certificate in
160 accordance with the finding and order of the court. If the court
161 fails to specify a surname for the child, the surname must ~~shall~~
162 be entered in accordance with subsection (3).

163 (e) If the parentage ~~paternity~~ of the child is determined
164 pursuant to s. 409.256, the name of the father and the surname
165 of the child must ~~shall~~ be entered on the certificate in
166 accordance with the finding and order of the Department of
167 Revenue.

168 (f) If the parents ~~mother and father~~ marry each other at
169 any time after the child's birth, upon receipt of a marriage
170 license that identifies any such child, the department shall
171 amend the certificate with regard to the parents' marital status
172 as though the parents were married at the time of birth.

173 (g) If the father is not named on the certificate, no other
174 information about the father shall be entered on the
175 certificate.

176 (3) NAME OF CHILD.—

177 (a) If the mother is married at the time of birth, the

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178 mother and spouse ~~father~~ whose names are entered on the birth
179 certificate shall select the given names and surname of the
180 child if both parents have custody of the child, otherwise the
181 parent who has custody shall select the child's name.

182 (b) If the parents ~~mother and father~~ whose names are
183 entered on the birth certificate disagree on the surname of the
184 child and both parents have custody of the child, the surname
185 selected by each parent ~~the father and the surname selected by~~
186 ~~the mother~~ shall both be entered on the birth certificate,
187 separated by a hyphen, with the selected names entered in
188 alphabetical order. If the parents disagree on the selection of
189 a given name, the given name may not be entered on the
190 certificate until a joint agreement that lists the agreed upon
191 given name and is notarized by both parents is submitted to the
192 department, or until a given name is selected by a court.

193 Section 3. Section 742.011, Florida Statutes, is amended to
194 read:

195 742.011 Determination of parentage ~~paternity~~ proceedings;
196 jurisdiction.—Any woman who is pregnant or has a child, any
197 spouse of a woman who is pregnant or has a child, any man who
198 has reason to believe that he is the father of a child, or any
199 child may bring proceedings in the circuit court, in chancery,
200 to determine the parentage ~~paternity~~ of the child when parentage
201 ~~paternity~~ has not been established by law or otherwise.

202 Section 4. Section 742.091, Florida Statutes, is amended to
203 read:

204 742.091 Marriage of parents.—If the ~~mother of any child~~
205 ~~born out of wedlock and the reputed~~ parents of a child ~~father~~
206 ~~shall~~ at any time after its birth intermarry, the child shall in

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207 all respects be deemed and held to be the child of the spouses
208 ~~husband and wife~~, as though born within wedlock, and upon the
209 payment of all costs and attorney fees as determined by the
210 court, the cause shall be dismissed and the bond provided for in
211 s. 742.021 is ~~shall be~~ void. The record of the proceedings in
212 such cases shall be sealed against public inspection in the
213 interests of the child.

214 Section 5. Section 742.105, Florida Statutes, is amended to
215 read:

216 742.105 Effect of a determination of parentage ~~paternity~~
217 from a foreign jurisdiction.—A final order of parentage
218 ~~paternity~~ entered in a foreign jurisdiction, whether resulting
219 from a voluntary acknowledgment or an administrative or judicial
220 process, or an affidavit acknowledging paternity signed in any
221 other state according to its procedures, must ~~shall~~ be given the
222 same legal effect as if such final order was entered or
223 affidavit was signed pursuant to this chapter. In any proceeding
224 in this state, a certified copy of the final order of parentage
225 ~~paternity~~ from a foreign jurisdiction is ~~shall be~~ conclusive
226 evidence of parentage ~~paternity~~.

227 Section 6. Section 742.11, Florida Statutes, is amended to
228 read:

229 742.11 Presumed status of child conceived by means of
230 artificial or in vitro insemination or donated eggs or
231 preembryos.—

232 (1) Except in the case of gestational surrogacy, any child
233 born within wedlock who has been conceived by the means of
234 artificial or in vitro insemination is irrebuttably presumed to
235 be the child of the spouses ~~husband and wife~~, provided that both

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236 spouses ~~husband and wife~~ have consented in writing to the
237 artificial or in vitro insemination.

238 (2) Except in the case of gestational surrogacy, any child
239 born within wedlock who has been conceived by means of donated
240 eggs or preembryos shall be irrebuttably presumed to be the
241 child of the recipient gestating woman and her spouse ~~husband~~,
242 provided that both parties have consented in writing to the use
243 of donated eggs or preembryos.

244 Section 7. Subsection (2) of section 742.13, Florida
245 Statutes, is amended to read:

246 742.13 Definitions.—As used in ss. 742.11-742.17, the term:

247 (2) "Commissioning couple" means the intended parents
248 ~~mother and father~~ of a child who will be conceived by means of
249 assisted reproductive technology using the eggs or sperm of at
250 least one of the intended parents.

251 Section 8. This act shall take effect July 1, 2016.