

House BILL NO. 276

1

2 INTRODUCED BY Kathel

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO PATERNITY PROCEEDINGS; PROVIDING THAT
5 WHEN THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES RECEIVES A CLAIM FROM A
6 CHILD'S MOTHER THAT NAMES A PERSON AS THE ALLEGED NATURAL FATHER OF A CHILD, THE
7 DEPARTMENT SHALL IMMEDIATELY TAKE REASONABLE STEPS TO LOCATE AND NOTIFY THE ALLEGED
8 FATHER OF THE EXISTENCE OF THE CLAIM; AND AMENDING SECTION 40-5-232, MCA."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 40-5-232, MCA, is amended to read:

13 **"40-5-232. Establishment of paternity -- notice of paternity determination -- contents.** (1) When
14 the paternity of a child has not been legally established under the provisions of Title 40, chapter 6, part 1,
15 or otherwise, the department may proceed to establish paternity under the provisions of 40-5-231 through
16 40-5-237. An administrative hearing held under the provisions of 40-5-231 through 40-5-237 is a contested
17 case within the meaning of 2-4-102 and is subject to the provisions of Title 2, chapter 4, except as
18 otherwise provided in 40-5-231 through 40-5-237.

19 (2) It is presumed to be in the best interest of a child to legally determine and establish paternity.
20 A presumption under this subsection may be rebutted by a preponderance of the evidence.

21 (3) In any proceeding under 40-5-231 through 40-5-237, if a person acknowledges paternity of
22 a child in writing and the acknowledgment is filed with the department, the department may enter an order
23 establishing legal paternity. As a part of a voluntary acknowledgment, the department shall provide
24 information to the parents regarding the rights and responsibilities of acknowledging paternity. An
25 acknowledgment is binding on a parent who executes it, whether or not the parent is a minor.

26 (4) Full faith and credit must be given to a determination of paternity made by any other state,
27 whether presumed by law, established through voluntary acknowledgment, or established by administrative
28 or judicial processes.

29 (5) The department shall commence proceedings to establish paternity by serving on an alleged
30 father a notice of paternity determination. The department may not serve the notice unless it has:

1 (a) a sworn statement from the child's mother claiming that the alleged father is the child's natural
2 father;

3 (b) evidence of the existence of a presumption of paternity under 40-6-105; or

4 (c) any other reasonable cause to believe that the alleged father is the child's natural father.

5 (6) Regardless of whether the department has grounds to or intends to commence a paternity
6 proceeding against the alleged father, when the department receives a claim from a child's mother that
7 names a person as the alleged natural father of the child, the department shall immediately take reasonable
8 steps to locate and notify the alleged father of the existence of the claim. The notification must include
9 the name of the mother and the date of birth or the projected date of birth if the child has not yet been
10 born.

11 ~~(6)~~(7) Service on the alleged father of the notice of paternity determination must be made as
12 provided in 40-5-231(2). The notice must include:

13 (a) an allegation that the alleged father is the natural father of the child involved;

14 (b) the child's name and place and date of birth;

15 (c) the name of the child's mother and the name of the person or agency having custody of the
16 child, if other than the mother;

17 (d) the probable time or period of time during which conception took place;

18 (e) a statement that if the alleged father fails to timely deny the allegation of paternity, the question
19 of paternity may be resolved against the alleged father without further notice;

20 (f) a statement that if the alleged father timely denies the allegation of paternity:

21 (i) the alleged father is subject to compulsory paternity blood testing;

22 (ii) a paternity blood test may result in a presumption of paternity; and

23 (iii) upon receipt of the paternity blood test results, if the alleged father continues to deny paternity,
24 the alleged father may request the department to refer the matter to district court for a determination of
25 paternity.

26 ~~(7)~~(8) The alleged father may file a written denial of paternity with the department within 20 days
27 after service of the notice of paternity determination.

28 ~~(8)~~(9) When there is more than one alleged father of a child, the department may serve a notice
29 of paternity determination on each alleged father in the same consolidated proceeding or in separate
30 proceedings. Failure to serve notice on an alleged father does not prevent the department from serving

1 notice on any other alleged father of the same child."

2 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0276, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

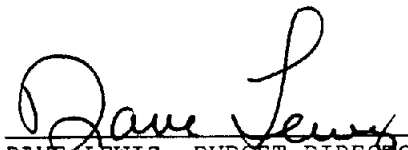
A bill providing that when the Department of Public Health and Human Services (DPHHS) receives a claim from a child's mother that names a person as the alleged natural father of a child, the department shall immediately take reasonable steps to locate and notify the alleged father of the existence of the claim.

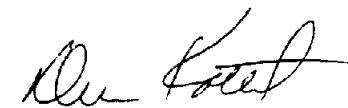
ASSUMPTIONS:

1. DPHHS will assume any new responsibilities allocated by this bill without fiscal impact.

FISCAL IMPACT:

Passage of HB 276 will have no fiscal impact on the state.

 1-22-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-22-97
DEB KOTTEL, PRIMARY SPONSOR DATE

Fiscal Note for HB0276, as introduced

HB 276

1 HOUSE BILL NO. 276

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6 DIVISION IN A CASE UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT RECEIVES A WRITTEN CLAIM
7 FROM A CHILD'S MOTHER THAT NAMES A PERSON AS THE ALLEGED NATURAL FATHER OF A CHILD,
8 THE DEPARTMENT SHALL ~~IMMEDIATELY~~ PROMPTLY TAKE REASONABLE STEPS TO LOCATE AND
9 NOTIFY THE ALLEGED FATHER OF THE EXISTENCE OF THE CLAIM; AND AMENDING SECTION 40-5-232,
10 MCA."

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17 or otherwise, the department may proceed to establish paternity under the provisions of 40-5-231 through
18 40-5-237. An administrative hearing held under the provisions of 40-5-231 through 40-5-237 is a contested
19 case within the meaning of 2-4-102 and is subject to the provisions of Title 2, chapter 4, except as
20 otherwise provided in 40-5-231 through 40-5-237.

21 (2) It is presumed to be in the best interest of a child to legally determine and establish paternity.
22 A presumption under this subsection may be rebutted by a preponderance of the evidence.

23 (3) In any proceeding under 40-5-231 through 40-5-237, if a person acknowledges paternity of
24 a child in writing and the acknowledgment is filed with the department, the department may enter an order
25 establishing legal paternity. As a part of a voluntary acknowledgment, the department shall provide
26 information to the parents regarding the rights and responsibilities of acknowledging paternity. An
27 acknowledgment is binding on a parent who executes it, whether or not the parent is a minor.

28 (4) Full faith and credit must be given to a determination of paternity made by any other state,
29 whether presumed by law, established through voluntary acknowledgment, or established by administrative
30 or judicial processes.

- 1 (5) The department shall commence proceedings to establish paternity by serving on an alleged
 2 father a notice of paternity determination. The department may not serve the notice unless it has:
- 3 (a) a sworn statement from the child's mother claiming that the alleged father is the child's natural
 4 father;
- 5 (b) evidence of the existence of a presumption of paternity under 40-6-105; or
- 6 (c) any other reasonable cause to believe that the alleged father is the child's natural father.
- 7 (6) Regardless of whether the department has grounds to or intends to commence a paternity
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 9 IN A CASE UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT receives a WRITTEN claim from a child's
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 11 PROMPTLY take reasonable steps to locate and notify the alleged father of the existence of the claim. The
 12 notification must include the name of the mother and the date of birth or the projected date of birth if the
 13 child has not yet been born.
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- 21 (e) a statement that if the alleged father fails to timely deny the allegation of paternity, the question
 22 of paternity may be resolved against the alleged father without further notice;
- 23 (f) a statement that if the alleged father timely denies the allegation of paternity:
- 24 (i) the alleged father is subject to compulsory paternity blood testing;
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- 26 (iii) upon receipt of the paternity blood test results, if the alleged father continues to deny paternity,
 27 the alleged father may request the department to refer the matter to district court for a determination of
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