

## SENATE BILL No. 27

By Committee on Judiciary

1-14

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9 AN ACT concerning paternity; amending K.S.A. 38-1114 and repealing  
10 the existing section.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 38-1114 is hereby amended to read as follows: 38-  
14 1114. (a) A man is presumed to be the father of a child if:

15 (1) The man and the child's mother are, or have been, married to  
16 each other and the child is born during the marriage or within 300 days  
17 after the marriage is terminated by death or by the filing of a journal entry  
18 of a decree of annulment or divorce.

19 (2) Before the child's birth, the man and the child's mother have  
20 attempted to marry each other by a marriage solemnized in apparent  
21 compliance with law, although the attempted marriage is void or voidable  
22 and:

23 (A) If the attempted marriage is voidable, the child is born during  
24 the attempted marriage or within 300 days after its termination by death  
25 or by the filing of a journal entry of a decree of annulment or divorce; or

26 (B) if the attempted marriage is void, the child is born within 300  
27 days after the termination of cohabitation.

28 (3) After the child's birth, the man and the child's mother have mar-  
29 ried, or attempted to marry, each other by a marriage solemnized in  
30 apparent compliance with law, although the attempted marriage is void  
31 or voidable and:

32 (A) The man has acknowledged paternity of the child in writing;

33 (B) with the man's consent, the man is named as the child's father  
34 on the child's birth certificate; or

35 (C) the man is obligated to support the child under a written volun-  
36 tary promise or by a court order.

37 (4) The man notoriously or in writing recognizes paternity of the  
38 child, including but not limited to a voluntary acknowledgment made in  
39 accordance with K.S.A. 38-1130 or 65-2409a, and amendments thereto.

40 (5) Genetic test results indicate a probability of 97% or greater that  
41 the man is the father of the child.

42 (6) The man has a duty to support the child under an order of support  
43 regardless of whether the man has ever been married to the child's

1 mother.

2 (b) A presumption under this section may be rebutted only by clear  
3 and convincing evidence, by a court decree establishing paternity of the  
4 child by another man or as provided in subsection (c). If a presumption  
5 is rebutted, the party alleging the existence of a father and child relation-  
6 ship shall have the burden of going forward with the evidence.

7 (c) If two or more presumptions under this section arise which con-  
8 flict with each other, the presumption which on the facts is founded on  
9 the weightier considerations of policy and logic, including the best inter-  
10 ests of the child, shall control.

11 (d) Full faith and credit shall be given to a determination of paternity  
12 made by any other state or jurisdiction, whether the determination is  
13 established by judicial or administrative process or by voluntary acknow-  
14 ledgment. As used in this section, "full faith and credit" means that the  
15 determination of paternity shall have the same conclusive effect and oblig-  
16 atory force in this state as it has in the state or jurisdiction where made.

17 (e) *Except as provided in subsection (g)*, if a presumption arises under  
18 this section, the presumption shall be sufficient basis for entry of an order  
19 requiring the man to support the child without further paternity  
20 proceedings.

21 (f) The donor of semen provided to a licensed physician for use in  
22 artificial insemination of a woman other than the donor's wife is treated  
23 in law as if he were not the birth father of a child thereby conceived,  
24 unless agreed to in writing by the donor and the woman.

25 (g) *Notwithstanding any other law to the contrary, a man presumed*  
26 *to be the father of a child pursuant to this section may request a genetic*  
27 *test to determine paternity and the results of the test may be used to rebut*  
28 *the presumption arising under this section. The rules of the common law*  
29 *which state that prior to ordering a blood test or genetic test to determine*  
30 *whether a presumed parent is a biological parent a court must consider*  
31 *the best interests of the child, including physical, mental and emotional*  
32 *needs, shall not be applied to any request for a genetic test by a man*  
33 *presumed to be the father of a child pursuant to this section. The provi-*  
34 *sions of this subsection shall only apply to actions concerning children*  
35 *under 18 years of age on July 1, 2009.*

36 Sec. 2. K.S.A. 38-1114 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its  
38 publication in the statute book.