

1 HB426
2 210368-1
3 By Representative Wadsworth
4 RFD: Judiciary
5 First Read: 23-FEB-21

8 SYNOPSIS: Existing law provides for the establishment
9 of paternity for a child.

10 This bill would provide that if the mother
11 of a child who is lawfully married misrepresents
12 her marital status to an alleged biological father,
13 and the alleged biological father has held the
14 child out as his own during the mother's pregnancy
15 with the child, the presumption of paternity in
16 favor of the mother's husband is rebuttable.

17 This bill would also allow the alleged
18 biological father to petition to establish
19 paternity of the child.

21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 Relating to paternity of children; to amend Section
26 26-17-204, Code of Alabama 1975; to provide further for
27 establishing paternity of a child.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 26-17-204, Code of Alabama 1975,
3 is amended to read as follows:

4 "§26-17-204.

5 "(a) A man is presumed to be the father of a child
6 if any of the following are true:

7 "(1) ~~he~~ He and the mother of the child are married
8 to each other and the child is born during the marriage~~7.~~

9 "(2) ~~he~~ He and the mother of the child were married
10 to each other and the child is born within 300 days after the
11 marriage is terminated by death, annulment, declaration of
12 invalidity, or divorce~~7.~~

13 "(3) ~~before~~ Before the birth of the child, he and
14 the mother of the child married each other in apparent
15 compliance with law, even if the attempted marriage is or
16 could be declared invalid, and the child is born during the
17 invalid marriage or within 300 days after its termination by
18 death, annulment, declaration of invalidity, or divorce~~7.~~

19 "(4) ~~after~~ After the child's birth, he and the
20 child's mother have married, or attempted to marry, each other
21 by a marriage solemnized in apparent compliance with the law
22 although the attempted marriage is or could be declared
23 invalid, and any of the following are true:

24 "~~(A) he~~ a. He has acknowledged his paternity of the
25 child in writing, such writing being filed with the
26 appropriate court or the Alabama Office of Vital Statistics~~7~~
27 ~~or.~~

1 "~~(B) with~~ b. With his consent, he is named as the
2 child's father on the child's birth certificate, ~~or.~~

3 "~~(C) he~~ c. He is otherwise obligated to support the
4 child either under a written voluntary promise or by court
5 order~~.~~

6 "(5) ~~while~~ While the child is under the age of
7 majority, he receives the child into his home and openly holds
8 out the child as his natural child or otherwise openly holds
9 out the child as his natural child and establishes a
10 significant parental relationship with the child by providing
11 emotional and financial support for the child, ~~or.~~

12 "(6) ~~he~~ He legitimated the child in accordance with
13 Chapter 11 of Title 26.

14 "(b) Notwithstanding any provision to the contrary,
15 if the mother of a child who is lawfully married misrepresents
16 her marital status to an alleged biological father prior to
17 conception of the child and the alleged biological father has
18 held the child out as his own during the mother's pregnancy
19 with the child, then the presumption of paternity in favor of
20 the mother's husband as the presumed father is rebuttable. The
21 alleged biological father shall not be precluded from
22 petitioning to establish paternity.

23 "~~(b)~~ (c) A presumption of paternity established under
24 this section may be rebutted only by an adjudication under
25 Article 6. In the event two or more conflicting presumptions
26 arise, that which is founded upon the weightier considerations
27 of public policy and logic, as evidenced by the facts, shall

1 control. The presumption of paternity is rebutted by a court
2 decree establishing paternity of the child by another man."

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.