

2020 Regular Session

HOUSE BILL NO. 410

BY REPRESENTATIVE LACOMBE

CHILDREN/LEGITIMATION: Provides relative to the presumption of paternity

1 AN ACT

2 To amend and reenact R.S. 9:408 and Civil Code Article 190.1, relative to the presumption
3 of paternity; to provide for the child support obligation owed by a presumed father
4 who executes a three-party acknowledgment; to provide for the proper parties in a
5 filiation or paternity proceeding; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:408 is hereby amended and reenacted to read as follows:

8 §408. Filiation and paternity proceeding; parties

9 The child's mother, ~~the husband of the mother~~ any man who would be
10 presumed to be the father under Civil Code Article 185, and the biological father, if
11 known, shall be joined in a filiation or paternity proceeding, except that joinder is not
12 required of a person whose parental rights have been terminated, or who is deceased,
13 or whose joinder is determined otherwise not to be feasible.

14 Section 2. Civil Code Article 190.1 is hereby amended and reenacted to read as
15 follows:

16 Art. 190.1. Three-party acknowledgment; alternative to disavowal; time period

17 If blood or tissue sampling indicates by a ninety-nine and nine-tenths
18 percentage point threshold probability that the biological father is the father of the
19 child and he is not the husband or former husband presumed to be the father of the
20 child, then the husband or former husband presumed to be the father of the child, the

1 mother, and the biological father of the child may execute a three-party
2 acknowledgment in authentic form declaring that the husband or former husband is
3 not the father of the child and that the biological father is the father of the child.
4 When a three-party acknowledgment is executed, the husband or former husband is
5 not presumed to be the father of the child. The biological father who has
6 acknowledged the child by three-party acknowledgment is presumed to be the father
7 of the child.

8 The execution of a three-party acknowledgment terminates the obligation to
9 pay child support by the husband or former husband and revokes any court order
10 enforcing that obligation. However, it does not affect any child support payment or
11 arrearages paid, due, or owing prior to the date the three-party acknowledgment was
12 executed.

13 To have effect, this acknowledgment shall be executed no later than ten years
14 from the day of the birth of the child but never more than one year from the day of
15 the death of the child. These time periods are preemptive.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 410 Original

2020 Regular Session

LaCombe

Abstract: Provides for the child support obligation of a husband or former husband who is no longer presumed to be the father pursuant to a three-party acknowledgment and provides that a husband or former husband presumed to be the father shall be joined in a filiation or paternity proceeding.

Present law (C.C. Art. 185) provides that the husband of the mother is presumed to be the father of a child born during the marriage or within 300 days from the date of the termination of the marriage. Proposed law retains present law.

Present law provides that the husband or former husband of the mother is not presumed to be the father of the child if the mother, presumed father, and biological father execute a three-party acknowledgment regarding the paternity of the child and a DNA test confirms the paternity of the biological father.

Proposed law retains present law and provides that the execution of a three-party acknowledgment terminates the obligation to pay child support by the husband or former husband and revokes any court order enforcing that obligation. However, it does not affect any child support payment or arrearages paid, due, or owing prior to the date the three-party acknowledgment was executed.

Present law provides that the child's mother, the husband of the mother, and the biological father shall be joined in a filiation or paternity proceeding.

Proposed law requires that in a filiation or paternity proceeding, the child's mother, the biological father, and any man presumed to be the father pursuant to present law shall be joined as a party.

(Amends R.S. 9:408 and C.C. Art. 190.1)