

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to establishing paternity.

PETITION OF:

NAME:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1655 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO ESTABLISHING PATERNITY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 11 of Chapter 209C of the General Laws as appearing in the 2004 Official Edition is
2 hereby amended by inserting at the end there of the following new sections:-
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4 (e) The commissioner of revenue in conjunction with the commissioner of the department of public health
5 shall promulgate regulations for uniform procedures for providing information to the mother and putative
6 father regarding the benefits and responsibilities of parentage and the taking of acknowledgments of
7 parentage at hospitals pursuant to section 3C of chapter 46 and this chapter, at the clerk of the city or
8 town's office or by other agencies or departments and the IV-D agency employees pursuant to sections 2,
9 5B and 11 of this chapter.

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11 (f) Before a written voluntary acknowledgment of parentage is executed by the putative father and the
12 mother of a child, genetic marker testing shall be performed to determine whether the putative father is the
13 child's father and the results of said testing shall have been made available to the parties unless the mother
14 and putative father have executed a voluntary acknowledgment of parentage with a notarized waiver of
15 genetic marker testing which indicates that:

- 16 (1) the party was offered genetic marker testing and declined to have genetic testing performed
17 before signing an acknowledgment of parentage;
18 (2) the party understands that an acknowledgment of parentage is the same as a court judgment
19 adjudicating paternity; and
20 (3) the party understands that a man who has been adjudicated the father of a child will be
21 responsible for the child's support until the child's emancipation unless he seeks relief from
22 judgment or rescinds the acknowledgment as set forth in preceding paragraphs.
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24 (g) Acknowledgment of parentage forms shall be promulgated by the commissioner of revenue in
25 conjunction with the commissioner of the department of public health with additional information to be provided to
26 the parties of the legal rights and responsibilities created by an acknowledgment of parentage, which shall include,
27 but not be limited to the following:

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- (1) the availability of genetic marker testing which can be performed before signing an acknowledgment of parentage form;
- (2) the opportunity to seek advice from an attorney (at the party's own expense) before signing the acknowledgment of parentage even if the party or child receives public assistance;
- (3) the benefits of genetic marker testing in promoting a child's best interests;
- (4) statements explaining that an acknowledgment of parentage creates a permanent father and child relationship even if the acknowledgment is made out of court, it is the same as a final court judgment declaring the man the father of a child;
- (5) statements explaining the consequences of making an acknowledgment of parentage and how to rescind an acknowledgment as well as set aside a judgment of parentage; or
- (6) statements indicating how to obtain genetic marker testing through the IV-D agency and the costs of such genetic marker testing.

(h) If the mother and/or putative father is a minor child under the age of eighteen; he or she may voluntarily acknowledge parentage but only if:

- (1) genetic marker testing has been performed and the results of such testing indicate a probability of paternity over 95% for the putative father; or
- (2) the acknowledgment is executed in a proceeding under this chapter where the minor is either represented by counsel or the court after a hearing determines that: (a) the minor father and/or minor mother was provided the opportunity to submit to genetic marker testing through the IV-D agency; and (b) the minor(s) file a written notarized waiver of such testing in the case; and (c) the minor or minor(s) were informed that the acknowledgment of parentage can only be challenged on the basis of duress, fraud, or mistake within a year after it is appropriate when an acknowledgment signed by a minor parent is filed with the court.

(i) Nothing in this section shall affect the validity of an acknowledgment signed before the effective date of sections 11e-1 of chapter 209C.