

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1417

S.P. 460

In Senate, May 4, 1987

Submitted by the Department of Human Services pursuant to Joint Rule 24.

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator MAYBURY of Penobscot.

Cosponsored by Senator BUSTIN of Kennebec, Representative BRAGG of Sidney, Representative WENTWORTH of Wells.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Concerning the Affidavit of Paternity.
2

3 Be it enacted by the People of the State of Maine as
4 follows:

5 22 M.R.S.A. §2761, sub-§4, as amended by PL 1985, c.
6 683, is further amended to read:

7 4. Illegitimate child. Except as otherwise pro-
8 vided in this subsection, in the case of a child con-
9 ceived and born out of wedlock, the name of the
10 putative father shall not be entered on the certifi-
11 cate without his written consent and that of the
12 mother. The signature of the putative father on the
13 written consent shall be acknowledged before an offi-
14 cial authorized to take oaths. ~~Within a reasonable~~
15 ~~time after the acknowledgment, the official taking~~
16 ~~the acknowledgment shall make a good faith effort to~~

1 ~~notify the mother of the child for whom paternity has~~
2 ~~been acknowledged. Notification shall be by certified~~
3 ~~mail, return receipt requested, or by in-hand~~
4 ~~notice. The signature of the mother on her written~~
5 ~~consent shall also be acknowledged before an official~~
6 ~~authorized to take oaths. If a determination of pa-~~
7 ~~ternity has been made by a court of competent juris-~~
8 ~~isdiction, then the name of the father as determined by~~
9 ~~the court shall be entered on the birth certificate~~
10 ~~without the father's or the mother's consent.~~

11 STATEMENT OF FACT

12 The present law regarding the entry of the
13 putative father's name on the birth certificate of an
14 illegitimate child, the Maine Revised Statutes, Title
15 22, section 2761, subsection 4, does not afford to the
16 child's mother adequate protection from false allega-
17 tion of paternity.

18 As of July, 1986, an attempt had to be made to
19 notify the mother if a putative father filed an affi-
20 davit of paternity. This change affords the mother
21 an opportunity to seek legal recourse to prevent a
22 false claim of paternity and consequent rights
23 vis-a-vis the child, but puts the burden of proof on
24 the mother rather than on the father. This State is
25 one of only 2 to 3 states having such an inequitable
26 process. Clearly, the parents should have equal le-
27 gal protection against false claims of paternity.

28 This bill requires that, without a court order,
29 both parties must give written consent to an affirma-
30 tion of paternity before the name of the putative fa-
31 ther may be entered on the birth certificate and the
32 relevant legal rights and responsibilities be con-
33 ferred upon him.

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