

2024 Regular Session

HOUSE BILL NO. 796

BY REPRESENTATIVE WILFORD CARTER

PATERNITY: Provide relative to the presumption of paternity

1 AN ACT

2 To amend and reenact R.S. 40: 34.2(2)(c) and Civil Code Articles 185 and 186 and to enact
3 R.S. 40:34.5(F), relative to presumption of paternity; to provide relative to the
4 presumption of paternity in same sex relationships; to provide relative to birth
5 certificate requirements; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40: 34.2(2)(c) is hereby amended and reenacted and R.S. 40:34.5(F)
8 is hereby enacted to read as follows:

9 §34.2. Original birth certificate; required contents; name of child

10 The name of the child shall be entered on the original birth certificate in
11 accordance with the following provisions:

12 * * *

13 (2) Surname.

14 * * *

15 (c) In the case of a child born to a mother who either is married or was
16 married within three hundred days prior to the birth of the child, including cases in
17 which both a person presumed to be the father pursuant to the Civil Code and a
18 biological father exist, the surname of the biological father who has been judicially
19 declared to be the father of the child in a filiation or paternity proceeding shall be the
20 surname of the child. If the biological father and the mother agree, the surname of

1 the child shall be the maiden name or surname of the mother or a combination of the
2 surname of the biological father and the maiden name or surname of the mother. The
3 provisions of this Section shall not apply to same sex relationships.

4 * * *

5 §34.5. Original birth certificate; required contents; name of father

6 * * *

7 F. The provisions of this Section shall not apply to same sex relationships.

8 Section 2. Civil Code Articles 185 and 186 are hereby amended and reenacted to
9 read as follows:

10 Art. 185. Presumption of paternity of husband

11 The husband of the mother is presumed to be the father of a child born during
12 the marriage or within three hundred days from the date of the termination of the
13 marriage. The presumption provided by this Article shall not apply to same sex
14 relationships.

15 Art. 186. Presumption if child is born after divorce or after death of husband; effect
16 of disavowal

17 A.(1) If a child is born within three hundred days from the day of the
18 termination of a marriage and his mother has married again before his birth, the first
19 husband is presumed to be the father.

20 (2) If the first husband, or his successor, obtains a judgment of disavowal of
21 paternity of the child, the second husband is presumed to be the father. The second
22 husband, or his successor, may disavow paternity if he institutes a disavowal action
23 within a peremptive period of one year from the day that the judgment of disavowal
24 obtained by the first husband is final and definitive.

25 B. The presumption provided by this Article shall not apply to same sex
26 relationships.

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 796 Original

2024 Regular Session

Wilford Carter

Abstract: Provides relative to the presumption of paternity in same sex relationships.

Present law (R.S. 40:34.2(2)(c)) provides that in the case of a child born to a mother who is married or married within 300 days prior to the birth of the child, the surname of the father shall be the surname of the child.

Proposed law changes present law to provide that the provisions of present law shall not apply to same sex relationships.

Present law (R.S. 40:34.5(A)) provides that if the child is born to a mother who is either married or married within 300 days prior to the birth of the child, the full name of the father shall be recorded in the same manner provided for the recordation provided for the recordation of the surname of the child in 40:34.2(2)(a) and (c) unless otherwise provided by law.

Proposed law (R.S. 40:34.5(F)) provides that the provisions of R.S. 40:34.5 shall not apply to same sex relationships.

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

Proposed law retains present law but provides that present law shall not apply to same sex relationships.

Present law (C.C. Art. 186) provides that if a child born within 300 days from the day of the termination of a marriage and his mother has married again before his birth, the first husband is presumed to be the father.

Proposed law retains present law but provides that present law shall not apply to same sex relationships.

(Amends R.S. 40:34.2(2)(c) and C.C. Arts. 185 and 186; Adds R.S. 40:34.5(F))