

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 140 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 16-37-2-2.1, AS AMENDED BY P.L.146-2006,
- 4 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2010]: Sec. 2.1. (a) A paternity affidavit may be executed as
- 6 provided in this section through:
- 7 (1) a hospital; or
- 8 (2) a local health department.
- 9 (b) Immediately before or after the birth of a child who is born out
- 10 of wedlock, a person who attends or plans to attend the birth, including
- 11 personnel of all public or private birthing hospitals, shall:
- 12 (1) provide an opportunity for:
- 13 (A) the child's mother; and
- 14 (B) a man who reasonably appears to be the child's biological
- 15 father;
- 16 to execute an affidavit acknowledging paternity of the child; and
- 17 (2) verbally explain to the individuals listed in subdivision (1) the
- 18 legal effects of an executed paternity affidavit as described in
- 19 subsection (g).
- 20 (c) A paternity affidavit must be executed on a form provided by the
- 21 state department. The paternity affidavit is valid only if the affidavit is
- 22 executed as follows:
- 23 (1) If executed through a hospital, the paternity affidavit must be
- 24 completed not more than seventy-two (72) hours after the child's

- 1 birth.
- 2 (2) If executed through a local health department, the paternity
3 affidavit must be completed before the child has reached the age
4 of emancipation.
- 5 (d) A paternity affidavit is not valid if it is executed after the mother
6 of the child has executed a consent to adoption of the child and a
7 petition to adopt the child has been filed.
- 8 (e) A paternity affidavit executed under this section must contain or
9 be attached to all of the following:
- 10 (1) The mother's sworn statement asserting that a person
11 described in subsection (b)(1)(B) is the child's biological father
12 **and is the only person who could possibly be the child's**
13 **biological father.**
- 14 (2) **A statement by the mother that she understands that:**
- 15 (A) **she has committed fraud for the purposes of subsection**
16 **(i)(1) if a man other than the person she has asserted under**
17 **subdivision (1) to be the child's biological father is**
18 **biologically the father of the child; and**
- 19 (B) **she is subject to arrest and prosecution if she commits**
20 **an offense under subsection (f).**
- 21 ~~(2)~~ (3) A statement by a person identified as the father under
22 subdivision (1) attesting:
- 23 (A) to a belief that he is the child's biological father;
- 24 (B) **that he has reviewed the mother's sworn statement in**
25 **the affidavit; and**
- 26 (C) **that he understands that, subject to subsection (i), a**
27 **paternity affidavit may not be rescinded more than sixty**
28 **(60) days after the paternity affidavit is executed.**
- 29 ~~(3)~~ (4) Written information furnished by the child support bureau
30 of the department of child services:
- 31 (A) explaining the effect of an executed paternity affidavit as
32 described in subsection (g); and
- 33 (B) describing the availability of child support enforcement
34 services.
- 35 ~~(4)~~ (5) The Social Security number of each parent.
- 36 (6) **A sworn statement that includes an affirmation under the**
37 **penalties of perjury that the representations in the paternity**
38 **affidavit are true.**
- 39 (f) A woman who knowingly or intentionally falsely names a man
40 as the child's biological father under this section commits a Class A
41 misdemeanor.
- 42 (g) A paternity affidavit executed under this section:
- 43 (1) establishes paternity;
- 44 (2) gives rise to parental rights and responsibilities of the person
45 described in subsection (e)(2), including:
- 46 (A) the right of the child's mother or the Title IV-D agency to

- 1 obtain a child support order against the person, which may
2 include an order requiring the provision of health insurance
3 coverage; and
4 (B) reasonable parenting time rights unless another
5 determination is made by a court in a proceeding under
6 IC 31-14-14; and
7 (3) may be filed with a court by the department of child services.
8 However, if a paternity affidavit is executed under this section, the
9 child's mother has sole legal custody of the child unless another
10 custody determination is made by a court in a proceeding under
11 IC 31-14.
- 12 (h) Notwithstanding any other law, a man who is a party to a
13 paternity affidavit executed under this section may, within sixty (60)
14 days of the date that a paternity affidavit is executed under this section,
15 file an action in a court with jurisdiction over paternity to request an
16 order for a genetic test.
- 17 (i) A paternity affidavit that is properly executed under this section
18 may not be rescinded more than sixty (60) days after the paternity
19 affidavit is executed unless a court:
20 (1) has determined that fraud, duress, or material mistake of fact
21 existed in the execution of the paternity affidavit; and
22 (2) at the request of a man described in subsection (h), has
23 ordered a genetic test, and the test indicates that the man is
24 excluded as the father of the child.
- 25 (j) Unless good cause is shown, a court shall not suspend the legal
26 responsibilities under subsection (g)(2)(A) of a party to the executed
27 paternity affidavit during a challenge to the affidavit.
- 28 (k) The court may not set aside the paternity affidavit unless a
29 genetic test ordered under subsection (h) or (i) excludes the person who
30 executed the paternity affidavit as the child's biological father.
- 31 (l) If a paternity affidavit is not executed under subsection (b), the
32 hospital where the birth occurs or a person in attendance at the birth
33 shall inform the child's mother of services available for establishing
34 paternity.
- 35 (m) Except as provided in this section, if a man has executed a
36 paternity affidavit in accordance with this section, the executed

- 1 paternity affidavit conclusively establishes the man as the legal father
- 2 of a child without any further proceedings by a court."
- 3 Renumber all SECTIONS consecutively.
(Reference is to ESB 140 as printed February 16, 2010.)

Representative Foley