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**PRELIMINARY DRAFT**  
**No. 3617**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2006 GENERAL ASSEMBLY**

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DIGEST

**Citations Affected:** IC 16-37-2-2.1.

**Synopsis:** Paternity affidavits. Requires the person attending a child's birth, when explaining to the birth mother and putative father immediately before or after the birth the legal consequences of executing a paternity affidavit, to specify that: (1) upon execution of a paternity affidavit, the mother and the state may obtain a child support order that requires the provision of health insurance coverage; (2) the rights and responsibilities of the putative father include reasonable parenting time; and (3) the department of child services may file the paternity affidavit with a court.

**Effective:** July 1, 2006.



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A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-37-2-2.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.1. (a) A paternity  
3 affidavit may be executed as provided in this section through:

- 4 (1) a hospital; or  
5 (2) a local health department.

6 (b) Immediately before or after the birth of a child who is born out  
7 of wedlock, a person who attends or plans to attend the birth, including  
8 personnel of all public or private birthing hospitals, shall:

- 9 (1) provide an opportunity for:  
10 (A) the child's mother; and  
11 (B) a man who reasonably appears to be the child's biological  
12 father;

13 to execute an affidavit acknowledging paternity of the child; and  
14 (2) verbally explain to the individuals listed in subdivision (1) the  
15 legal effects of an executed paternity affidavit as described in  
16 subsection (g).

17 (c) A paternity affidavit must be executed on a form provided by the  
18 state department. The paternity affidavit is valid only if the affidavit is  
19 executed as follows:

- 20 (1) If executed through a hospital, the paternity affidavit must be  
21 completed not more than seventy-two (72) hours after the child's  
22 birth.  
23 (2) If executed through a local health department, the paternity  
24 affidavit must be completed before the child has reached the age  
25 of emancipation.

26 (d) A paternity affidavit is not valid if it is executed after the mother  
27 of the child has executed a consent to adoption of the child and a  
28 petition to adopt the child has been filed.

29 (e) A paternity affidavit executed under this section must contain or  
30 be attached to all of the following:

- 31 (1) The mother's sworn statement asserting that a person



- 1 described in subsection ~~(a)(2)~~ **(b)(1)(B)** is the child's biological  
 2 father.
- 3 (2) A statement by a person identified as the father under  
 4 subdivision (1) attesting to a belief that he is the child's biological  
 5 father.
- 6 (3) Written information furnished by the ~~division of family and~~  
 7 ~~children:~~ **department of child services:**
- 8 (A) explaining the effect of an executed paternity affidavit as  
 9 described in subsection (g); and  
 10 (B) describing the availability of child support enforcement  
 11 services.
- 12 (4) The Social Security number of each parent.
- 13 (f) A woman who knowingly or intentionally falsely names a man  
 14 as the child's biological father under this section commits a Class A  
 15 misdemeanor.
- 16 (g) A paternity affidavit executed under this section:
- 17 (1) establishes paternity; ~~and~~  
 18 (2) gives rise to parental rights and responsibilities of the person  
 19 described in subsection (e)(2), including:
- 20 (A) the right of the child's mother or the Title IV-D agency to  
 21 obtain a child support order against the person, **which may**  
 22 **include an order requiring the provision of health**  
 23 **insurance coverage; and**  
 24 (B) **reasonable parenting time rights unless another**  
 25 **determination is made by a court in a proceeding under**  
 26 **IC 31-14-14; and**  
 27 **(3) may be filed with a court by the department of child**  
 28 **services.**
- 29 However, if a paternity affidavit is executed under this section, the  
 30 child's mother has sole legal custody of the child unless another  
 31 custody determination is made by a court in a proceeding under  
 32 IC 31-14.
- 33 (h) Notwithstanding any other law:
- 34 (1) any person listed in IC 31-14-4-1 or IC 31-14-4-3; or  
 35 (2) a man who is a party to a paternity affidavit executed under  
 36 this section;
- 37 may, within sixty (60) days of the date that a paternity affidavit is  
 38 executed under this section, file an action in a court with jurisdiction  
 39 over paternity to request an order for a genetic test.
- 40 (i) A paternity affidavit that is properly executed under this section  
 41 may not be rescinded more than sixty (60) days after the paternity  
 42 affidavit is executed unless a court has determined that fraud, duress,  
 43 or material mistake of fact existed in the execution of the paternity  
 44 affidavit.
- 45 (j) Unless good cause is shown, a court shall not suspend the legal  
 46 responsibilities under subsection ~~(g)(2)~~ **(g)(2)(A)** of a party to the



1       executed paternity affidavit during a challenge to the affidavit.

2           (k) The court shall set aside the paternity affidavit upon a showing  
3       from a genetic test that sufficiently demonstrates that the person who  
4       executed the paternity affidavit is excluded as the child's biological  
5       father.

6           (l) If a paternity affidavit is not executed under subsection (b), the  
7       hospital where the birth occurs or a person in attendance at the birth  
8       shall inform the child's mother of services available for establishing  
9       paternity.

