<p style="text-align:center">**PROBATE CODE OF 1939 (EXCERPT)**
Act 288 of 1939</p>

710.36 Hearing to determine whether child born out of wedlock and to determine identity and rights of father; filing proof of service of notice of intent or acknowledgment; copy of notice of intent to claim paternity; notice of hearing; contents; filing proof of service of notice of hearing; waiver; evidence of identity; affidavit or verified written declaration; finding; adjournment of proceedings.

Sec. 36. (1) If a child is claimed to be born out of wedlock and the mother executes or proposes to execute a release or consent relinquishing her rights to the child or joins in a petition for adoption filed by her spouse, and the release or consent of the natural father cannot be obtained, the judge shall hold a hearing as soon as practical to determine whether the child was born out of wedlock, to determine the identity of the father, and to determine or terminate the rights of the father as provided in this section and sections 37 and 39 of this chapter.

(2) Proof of service of a notice of intent to release or consent or the putative father's verified acknowledgment of notice of intent to release or consent shall be filed with the court, if the notice was given to the putative father. The court shall request the vital records division of the department to send to the court a copy of any notice of intent to claim paternity of the particular child that the division has received.

(3) Notice of the hearing shall be served upon the following:

(a) A putative father who has timely filed a notice of intent to claim paternity as provided in section 33 or 34 of this chapter.

(b) A putative father who was not served a notice of intent to release or consent at least 30 days before the expected date of confinement specified in the notice of intent to release or consent.

(c) Any other male who was not served according to section 34(1) of this chapter with a notice of intent to release or consent and who the court has reason to believe may be the child's father.

(4) The notice of hearing shall inform the putative father that his failure to appear at the hearing constitutes a denial of his interest in custody of the child, which denial shall result in the court's termination of his rights to the child.

(5) Proof of service of the notice of hearing required by subsection (3) shall be filed with the court. A verified acknowledgment of service by the party to be served is proof of personal service. Notice of the hearing shall not be required if the putative father is present at the hearing. A waiver of notice of hearing by a person entitled to receive it is sufficient.

(6) The court shall receive evidence as to the identity of the father of the child. In lieu of the mother's live testimony, the court shall receive an affidavit or a verified written declaration from the mother as evidence of the identity and whereabouts of the child's father. If the court determines that the affidavit or verified written declaration is insufficient, the court shall allow amendment of the affidavit or verified written declaration. If the court determines that the amendment of the affidavit or verified written declaration is insufficient, the court may receive live testimony from the mother. Based upon the evidence received, the court shall enter a finding identifying the father or declaring that the identity of the father cannot be determined.

(7) If the court finds that the child's father is a person who did not receive either a timely notice of intent to release or consent according to section 34(1) of this chapter or a notice required under subsection (3), and who has neither waived his right to notice of hearing nor is present at the hearing, the court shall adjourn further proceedings until that person is served with a notice of hearing.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 288, Eff. Oct. 17, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2016, Act 191, Eff. Sept. 19, 2016;—Am. 2016, Act 325, Eff. Feb. 20, 2017.

Popular name: Probate Code