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TESTIMONY ON SENATE BILL 512 For the Senate Judiciary Committee April 10, 2017

Presented by:

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This testimony is submitted in support of Senate Bill 512, with -2 amendments.

How This Bill Changes Current Law

Senate Bill 512 extends the current marital presumption to include same-sex spouses of birth mothers. It amends ORS 109.070 to provide for the establishment of parentage based on the presumption that the spouse of a birth mother is a parent to her child. The -2 amendments revise language in ORS 109.125 by replacing “mother’s husband” with “woman’s spouse” in order to ensure that a woman’s spouse, regardless of gender, will receive notice of an action initiated to establish a man as the parent of a child born during a marriage. The term “man” is replaced with “person” and “paternity” is replaced with “parentage” to ensure that any person with parentage established under any provision of ORS 109.070 is a necessary party to an action to establish the paternity of a man, unless that person has already been disestablished.

Senate Bill 512 positively impacts the state by providing a basis for parentage and duty of support for the same-sex spouse of a birth mother. In addition to providing a source of child support for the parent with custody when the spouses are separated, the legislation ensures the income of the spouse may be considered for public assistance eligibility, and that the spouse may be considered as a potential placement option for a child in the custody of the state. By providing a second parent under the law for children born to women with same-sex spouses, this bill may reduce state costs in assisting a child when the birth mother is unable to support the child alone.

Key Points of Legislation

- Amends ORS 416.400(7) by expanding the definition a “parent” against whom a support obligation may be established to include persons whose parentage has been established by law.
- Amends ORS 109.070 to extend the current marital presumption to include spouses of birth mothers, regardless of gender, statutorily overruling dicta in *Shineovich and Kemp*, 229 Or App 670, 214 P3d 29, rev den, 347 Or 365 (2009), describing the presumption as one of biological paternity.
- Amendments replace terminology in ORS 109.125 that is too narrow in scope (such as replacing “husband” with “spouse” and removing gender-specific language regarding the spouse of a birth mother).
- Senate Bill 512 does not seek to alter Oregon filiation proceedings or voluntary acknowledgments of paternity, which rely on the possibility of a biological relationship to the child.

Fiscal Impact

None.

Fiscal Benefits

May reduce state costs in assisting a child when the birth mother is unable to support the child alone.

Recommended Action

The Oregon Department of Justice recommends adoption of the -2 amendments and committee approval of Senate Bill 512 as amended because it will provide for more equal treatment under the law for children born to women with same-sex spouses, and it will ensure that the children born during marriage will have two legal parents obligated to support them from birth.