

**Introduced by Senator Wright**February 23, 2012

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An act to add Sections 7575.5 and 7646.5 to the Family Code, relating to paternity.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1260, as introduced, Wright. Paternity.

Existing law establishes a conclusive presumption that a man is the natural father of a child if he and the natural mother of the child are married and the child is born during the marriage, or if he signs a voluntary declaration of paternity, as provided. Under existing law, these presumptions of paternity may be rebutted by genetic evidence that another man is the biological father of the child. Existing law requires that a motion for genetic tests be filed not later than 2 years after the birth of the child, as specified.

Existing law provides that, except as to cases in which paternity is presumed under the conclusive presumption described above, specified persons, including a man alleged or alleging himself to be the father, may bring an action to determine the existence of the father and child relationship. Existing law requires that a motion to set aside a judgment to establish paternity must be brought within a 2- year period, as specified.

This bill would, notwithstanding these provisions, grant courts the discretion to set aside a paternity judgment in the interest of justice, based on the totality of the circumstances and the best interests of the child, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7575.5 is added to the Family Code, to  
2 read:

3 7575.5. (a) Notwithstanding Section 7575, and except as  
4 provided in subdivision (b), a court shall have the discretion to set  
5 aside a paternity judgment in the interest of justice, based on the  
6 totality of the circumstances and the best interests of the child.

7 (b) This section shall not apply to a donor of semen who agrees  
8 in a writing, pursuant to subdivision (b) of Section 7613, to be  
9 treated in law as if he were the natural father of a child conceived  
10 by artificial insemination or in vitro fertilization, and who is  
11 determined by genetic testing to be the natural father.

12 SEC. 2. Section 7646.5 is added to the Family Code, to read:

13 7646.5. (a) Notwithstanding Section 7646, and except as  
14 provided in subdivision (b), a court shall have the discretion to set  
15 aside a paternity judgment in the interest of justice, based on the  
16 totality of the circumstances and the best interests of the child.

17 (b) This section shall not apply to a donor of semen who agrees  
18 in a writing, pursuant to subdivision (b) of Section 7613, to be  
19 treated in law as if he were the natural father of a child conceived  
20 by artificial insemination or in vitro fertilization, and who is  
21 determined by genetic testing to be the natural father.