

## **KENTUCKY GENERAL ASSEMBLY; Fathers' rights bill dead, but it may return**

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**Author:** *Andrew Wolfson awolfson@courier-journal.com The Courier-Journal*

### **Opponents say measure would undermine marriage**

Married and a father of three, Shane Benton said he knows he did wrong four years ago when he had an affair with a married woman who had four children herself.

But when she became pregnant and they decided to remain in their respective marriages, he accepted responsibility for his newborn son, Benton said. He won joint custody, paid for his support, and took him into his home.

But Benton hasn't seen his son since August, he said, because of a ruling four months earlier in which the Kentucky Supreme Court held that a man who fathers a child during an affair with a married woman has no parental rights.

Benton said the mother of the child stopped letting him see the boy, and a family court judge in Scott County said that he couldn't do anything about it because of the Supreme Court's ruling.

The mother has an unlisted number and couldn't be reached for comment, and her lawyer, Brandi Simon, declined to comment.

### **Little hope for bill**

Benton rested his hopes on a bill in the Kentucky General Assembly that would reverse that ruling, and he testified last month before a legislative committee on its behalf.

With the session nearly over, however, the sponsor of House Bill 28, Rep. Darryl Owens, D-Louisville, says the bill is dead, killed by lobbyists who said it would undermine the institution of marriage.

The Family Foundation of Kentucky's Martin Cothran branded it the "Adulterers' Rights Bill" and warned that it could lead to rapists demanding parental rights.

Robert Castagna, executive director of the Catholic Conference of Kentucky, told lawmakers that it might even encourage abortions by women who get pregnant during affairs but then decide to return to their husbands.

"The institution of marriage has been weakened enough," he said .

The bill would have reversed the decision in *Ricketts vs. Rhoades* , in which a sharply divided Supreme Court upheld the presumption that a child born to a married woman living with her husband is a child of the marriage.

The court ruled 4-3 that James Rhoades , of Tallahassee, Fla., had no right to help raise a child he claims to have fathered during an affair with Julia Ricketts , of Louisville, who decided later that she wanted to raise the child with her husband, Jonathan Ricketts , a Louisville attorney.

Since the April 24 opinion, Rhoades has conducted a public campaign against it, buying space on billboards and through a blog, "Letmeseemyson.blogspot.com ," in which he has chronicled Jonathan Ricketts ' speeding tickets and titled one entry, "How does Julia Nuss Ricketts Sleep At Night?"

That campaign may have backfired — bringing unwanted attention to the measure.

### **The recent debates**

Last year, a nearly identical proposal sponsored by Owens passed the House 95-1, though the Senate never voted on it.

The legislation would have allowed a man other than the husband to try to prove he was the father of a child born out of wedlock.

A court would still decide on custody and visitation rights based on the best interests of the child, Owens said.

He said his bill simply allows a man to pursue the right to be responsible for his child.

But Robert Stenger, who teaches family law at the University of Louisville's Brandeis School of Law, warned in a letter to House Judiciary Committee members that "allowing outsiders to take a family to court to determine paternity could be unwise and dangerous."

Determining the father, he said, would "require detailed and intrusive interventions into highly personal and intimate details in the lives of at least three people" and "create risks for the child."

The legislation generated a smattering of support, including from Rep. C.B. Embry Jr., R-Morgantown, who said he co-sponsored the bill on behalf of a pair of grandparents in his district who wanted to see if their son could establish paternity for a child who would be their first and only grandchild.

Thirty-three states allow a man to challenge the presumption that a child born to a

married couple is the husband's.

But Cothran, a senior policy analyst for the Family Foundation, said that married parents should be allowed to raise children without "the interference of somebody who already has disrupted the marriage."

In his blog, Cothran has said that "if biology is the prevailing consideration," then what prevents a rapist from demanding parental rights?

### **The fight continues**

The Supreme Court decision and Owens' bill have triggered scathing debate — including attacks on Rhoades , whom one blogger called a "predatory marital gigolo" who should be placed on a "marital offenders registry."

Rhoades , a librarian at Florida State University who met Julia Ricketts when her husband was stationed at a military base in Florida , said he just wants to see his son.

Attorneys Louis Waterman and Charlie Ricketts , co-counsel for the Rickettses and Jonathan's father, said the family played no role in defeating the legislation — and that the Supreme Court made the right call.

Owens said that he will introduce his bill again next year — and Rhoades says he will be back when he does.

"I am not going to stop fighting," he said. "Why should our son suffer because of our sins?"

Reporter Andrew Wolfson can be reached at (502) 582-7189.

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