

Thesis Title	:	Legal Measure in Supporting Illegitimate Child to Prov Fatherhood
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ABSTRACT

Whereas, the current principle of Thai law, as per the provision of Section 1546, a new born child is always presumed to be a legitimate child of the mother, to be a legitimate father, the law requires a certain proof basing on certain presumption that appears in the context of Section 1536. It is a matter of fact that the legitimacy and association in blood of a mother and child are thus a fact that will never change and easy to be proved, while fatherhood is more likely complicated in terms of its attestation on the father-child relationship since the mother may have sexual intercourse with a number of men and any of whom is possible to be the father. This is even true in the case where the mother was formerly abused and ravished or where there is an indication that the mother tends to have such promiscuous behavior. To rely merely on a fact, an involved party may not be able to proceed some legal actions and thus requires provisions of the law in support to push forward any required legal procedures deemed necessary to prevent any problems may raise as the result of the illegitimacy, i.e. a child's right of inheritance to the putative father's estate and the child's right to bear the father's surname or title. This is especially when a child is conceived outside marriage and in the case where the child is unable to entitle his/her father's nationality because of such lack of legitimacy.

His or her lost in some rights is undeniably influential and possibly creates some impacts. To file a lawsuit and claim against someone to be a father, the law does regulate some specific persons but yet lack a regulation to certify legal status of a new born child under

surrogacy, as well as provisions to clearly deal with attestation of Deoxyribo Nucleic Acid (DNA) examination.

Accordingly, this research is proposing an amendment of the Thai Civil and Commercial Code Section 1556 to i) to extend the definition of the person entitled to sue to include any interested persons and ii) in order to cope with the legal status of a child born under surrogacy, iii) as well as to regulate a new hearing provision in the light of DNA evidence, which can be done by amending the Civil Procedure Code, Section 128/1, to be read as *“Evidence from any scientific test, including but not limited to Deoxyribo Nucleic Acid (DNA) or forensic science, can be presented before court and recognized as an admissible evidence if such evidence i) is obtained from any reliable institutions or departments, ii) appropriate, and iii) may benefit, rather than to harm unfair bias against the defendant”*. Through such amendment, it is believed that there shall be an increasing number of new born children being saved from the illegitimacy and provide our society a better standard to efficiently and effectively handle cases which may have in the future. This legal protection we shall bring fairness to the parties and judicial process.

