

ASSEMBLY, No. 2609

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MARCH 5, 2012

Sponsored by:

Assemblyman GILBERT "WHIP" L. WILSON
District 5 (Camden and Gloucester)

SYNOPSIS

Amends and supplements the "New Jersey Parentage Act" to provide relief from judgment and modification of child support orders under certain circumstances; requires paternity testing of all infants at birth.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning paternity and child support, amending and
2 supplementing P.L.1983, c.17.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 4 of P.L.1983, c. 17 (C.9:17-41) is amended to read
8 as follows:

9 4. The parent and child relationship between a child and:

10 a. The natural mother, may be established by proof of her
11 having given birth to the child, or under P.L.1983, c.17 (C.9:17-38
12 et seq.);

13 b. The natural father, may be established by proof that his
14 paternity has been adjudicated under prior law; under the laws
15 governing probate; by giving full faith and credit to a determination
16 of paternity made by any other state or jurisdiction, whether
17 established through voluntary acknowledgment or through judicial
18 or administrative processes; by a Certificate of Parentage as
19 provided in section 7 of P.L.1994, c.164 (C.26:8-28.1) that is
20 executed by the father, including an unemancipated minor, prior to
21 or after the birth of a child, and filed with the appropriate State
22 agency; by a default judgment or order of the court; or by an order
23 of the court based on a blood test or genetic test that meets or
24 exceeds the specific threshold probability as set by subsection i. of
25 section 11 of P.L.1983, c.17 (C.9:17-48) creating a rebuttable
26 presumption of paternity.

27 In accordance with section 331 of Pub.L.104-193, a signed
28 voluntary acknowledgment of paternity shall be considered a legal
29 finding of paternity subject to the right of the signatory to rescind
30 the acknowledgment within 60 days of the date of signing, or by the
31 date of establishment of a support order to which the signatory is a
32 party, whichever is earlier.

33 The adjudication or acknowledgement of paternity shall only be
34 voided upon a finding that there exists clear and convincing
35 evidence of: fraud, duress or a material mistake of fact, with the
36 burden of proof upon the challenger in accordance with section 6 of
37 P.L. .c. (C.)(pending before the Legislature as this bill);

38 c. An adoptive parent, may be established by proof of
39 adoption;

40 d. The natural mother or the natural father, may be terminated
41 by an order of a court of competent jurisdiction in granting a
42 judgment of adoption or as the result of an action to terminate
43 parental rights;

44 e. The establishment of the parent and child relationship
45 pursuant to subsections a., b., and c. of this section shall be the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 basis upon which an action for child support may be brought by a
2 party and acted upon by the court without further evidentiary
3 proceedings;

4 f. In any case in which the parties execute a Certificate of
5 Parentage or a rebuttable presumption of paternity is created
6 through genetic testing, the presumption of paternity under section
7 6 of P.L.1983, c.17 (C.9:17-43) shall not apply;

8 g. Pursuant to the provisions of section 331 of Pub.L.104-193,
9 the child and other parties in a contested paternity case shall submit
10 to a genetic test upon the request of one of the parties, unless that
11 person has good cause for refusal, if the request is supported by a
12 sworn statement by the requesting party:

13 (1) alleging paternity and setting forth the facts establishing a
14 reasonable possibility of the requisite sexual contact between the
15 parties; or

16 (2) denying paternity and setting forth the facts establishing a
17 reasonable possibility of the nonexistence of sexual contact between
18 the parties;

19 h. In a contested paternity case in which the State IV-D agency
20 requires or the court orders genetic testing, the State IV-D agency
21 shall:

22 (1) pay the costs of the genetic test and may recoup payment
23 from the alleged father whose paternity is established; and

24 (2) obtain additional testing if the initial test results are
25 contested, and upon the request and advance payment for the
26 additional test by the contestant.

27 (cf: P.L.1998, c.1, s.38)

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29 2. Section 6 of P.L.1983, c.17 (C.9:17-43) is amended to read as
30 follows:

31 6. a. A man is presumed to be the biological father of a child if:

32 (1) He and the child's biological mother are or have been
33 married to each other and the child is born during the marriage, or
34 within 300 days after the marriage is terminated by death,
35 annulment or divorce;

36 (2) Before the child's birth, he and the child's biological mother
37 have attempted to marry each other by a marriage solemnized in
38 apparent compliance with law, although the attempted marriage is
39 or could be declared invalid, and:

40 (a) if the attempted marriage could be declared invalid only by a
41 court, the child is born during the attempted marriage, or within 300
42 days after its termination by death, annulment or divorce; or

43 (b) if the attempted marriage is invalid without a court order, the
44 child is born within 300 days after the termination of cohabitation;

45 (3) After the child's birth, he and the child's biological mother
46 have married, or attempted to marry, each other by a marriage
47 solemnized in apparent compliance with law, although the
48 attempted marriage is or could be declared invalid, and:

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- 1 (a) he has acknowledged his paternity of the child in writing
2 filed with the local registrar of vital statistics;
- 3 (b) he has sought to have his name placed on the child's birth
4 certificate as the child's father, pursuant to R.S.26:8-40; or
- 5 (c) he openly holds out the child as his natural child; or
- 6 (d) he is obligated to support the child under a written voluntary
7 agreement or court order;
- 8 (4) While the child is under the age of majority, he receives the
9 child into his home and openly holds out the child as his natural
10 child;
- 11 (5) While the child is under the age of majority, he provides
12 support for the child and openly holds out the child as his natural
13 child; or
- 14 (6) He acknowledges his paternity of the child in a writing filed
15 with the local registrar of vital statistics, which shall promptly
16 inform the mother of the filing of the acknowledgment, and she
17 does not dispute the acknowledgment within a reasonable time after
18 being informed thereof, in a writing filed with the local registrar. If
19 another man is presumed under this section to be the child's father,
20 acknowledgment may be effected only with the written consent of
21 the presumed father. Each attempted acknowledgment, whether or
22 not effective, shall be kept on file by the local registrar of vital
23 statistics and shall entitle the person who filed it to notice of all
24 proceedings concerning parentage and adoption of the child, as
25 provided in section 10 of P.L.1983, c.17 (C.9:17-47) and pursuant
26 to section 9 of P.L.1977, c.367 (C.9:3-45).
- 27 b. A presumption under this section may be rebutted in an
28 appropriate action only by clear and convincing evidence. If two or
29 more presumptions arise which conflict with each other, the
30 presumption which on the facts is founded on the weightier
31 considerations of policy and logic controls. The presumption is
32 rebutted by a court order terminating the presumed father's paternal
33 rights or by establishing that another man is the child's biological or
34 adoptive father in accordance with section 6 of P.L. _____,
35 c. (C.)(pending before the Legislature as this bill).
- 36 c. Notwithstanding the provisions of this section to the
37 contrary, in an action brought under this act against the legal
38 representative or the estate of a deceased alleged father, the criteria
39 in paragraphs (4) and (5) of subsection a. of this section shall not
40 constitute presumptions but shall be considered by the court
41 together with all of the evidence submitted. The decision of the
42 court shall be based on a preponderance of the evidence.
- 43 d. In the absence of a presumption, the court shall decide
44 whether the parent and child relationship exists, based upon a
45 preponderance of the evidence.
- 46 e. There is a rebuttable presumption that a man has knowledge
47 of his paternity and the birth of a child if he had sexual intercourse
48 with the biological mother within 300 days of the child's birth. This

1 presumption may be rebutted only by clear and convincing evidence
2 in an appropriate action based on fraud, duress, or
3 misrepresentation by the biological mother concerning the paternity
4 or birth of the child in accordance with section 6 of P.L. ,
5 c. (C.)(pending before the Legislature as this bill). This claim of
6 fraud, duress, or misrepresentation must be asserted prior to the
7 finalization of the adoption.

8 (cf: P.L.1998, c.20, s.4)

9

10 3. Section 8 of P.L.1983, c. 17 (C.9:17-45) is amended to read as
11 follows:

12 8. a. A child, a legal representative of the child, the natural
13 mother, the estate or legal representative of the mother, if the
14 mother has died or is a minor, a man alleged or alleging himself to
15 be the father, the estate or legal representative of the alleged father,
16 if the alleged father has died or is a minor, the Division of Family
17 Development in the Department of Human Services, or the county
18 welfare agency, or any person with an interest recognized as
19 justiciable by the court may bring or defend an action or be made a
20 party to an action at any time for the purpose of determining the
21 existence or nonexistence of the parent and child relationship.

22 b. No action shall be brought under P.L.1983, c.17 (C.9:17-38
23 et seq.) more than five years after the child attains the age of
24 majority.

25 c. The death of the alleged father shall not cause abatement of
26 any action to establish paternity, and an action to determine the
27 existence or nonexistence of the parent and child relationship may
28 be instituted or continued against the estate or the legal
29 representative of the alleged father.

30 d. Regardless of its terms, an agreement, other than an
31 agreement approved by the court in accordance with subsection c.
32 of section 11 of P.L.1983, c.17 (C.9:17-48) between an alleged or
33 presumed father and the mother of the child, shall not bar an action
34 under this section or section 6 of P.L. , c. (C.)(pending before
35 the Legislature as this bill).

36 e. If an action under this section is brought before the birth of
37 the child, all proceedings shall be stayed until after the birth, except
38 service of process and the taking of depositions to perpetuate
39 testimony. The court may consider the issue of medical expenses
40 and may order the alleged father to pay the reasonable expenses of
41 the mother's pregnancy and postpartum disability. Bills for
42 pregnancy, childbirth and genetic testing are admissible as evidence
43 without requiring third party foundation testimony, and shall
44 constitute prima facie evidence of the amounts incurred for such
45 services or for testing on behalf of the child.

46 f. This section does not extend the time within which a right of
47 inheritance or a right to succession may be asserted beyond the time
48 provided by law relating to distribution and closing of decedents'

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1 estates or to the determination of heirship, or otherwise, or limit any
2 time period for the determination of any claims arising under the
3 laws governing probate, including the construction of wills and trust
4 instruments.

5 (cf: P.L.1998, c.1, s.39)

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7 4. Section 11 of P.L.1983, c. 17 (C.9:17-48) is amended to read
8 as follows:

9 11. a. As soon as practicable after an action to declare the
10 existence or nonexistence of the father and child relationship has
11 been brought, a consent conference shall be held by the Superior
12 Court, Chancery Division, Family Part intake service, the Probation
13 Division or the county welfare agency. At the request of either
14 party, the determination of paternity may be referred directly to the
15 court in lieu of the consent process. A court appearance shall be
16 scheduled in the event that a consent agreement cannot be reached.

17 b. On the basis of the information produced at the conference,
18 an appropriate recommendation for settlement shall be made to the
19 parties, which may include any of the following:

20 (1) That the action be dismissed with or without prejudice; or

21 (2) That the alleged father voluntarily acknowledge his paternity
22 of the child.

23 c. If the parties accept a recommendation made in accordance
24 with subsection b. of this section, which has been approved by the
25 court, judgment shall be entered or a Certificate of Parentage shall
26 be executed accordingly.

27 d. If a party refuses to accept a recommendation made under
28 subsection b. of this section or the consent conference is terminated
29 because it is unlikely that all parties would accept a
30 recommendation pursuant to subsection b. of this section, and blood
31 tests or genetic tests have not been taken, the county welfare agency
32 shall require or the court shall order the child and the parties to
33 submit to blood tests or genetic tests unless a party claims, and the
34 county welfare agency or the court finds, good cause for not
35 ordering the tests. The court may hear and decide motions to
36 challenge a directive issued by the county welfare agency requiring
37 a party to submit to blood or genetic tests. A genetic test shall be
38 ordered upon the request of either party, if the request is supported
39 by a sworn statement by the requesting party which alleges
40 paternity and sets forth the facts establishing a reasonable
41 possibility of the requisite sexual contact between the parties or
42 denies paternity and sets forth the facts establishing a reasonable
43 possibility of the nonexistence of sexual contact between the parties
44 or the reasonable possibility of the existence of sexual contact
45 between the mother and another man. If a party refuses to
46 acknowledge paternity based upon the blood or genetic test results,
47 the action shall be set for a hearing.

1 If the results of the blood test or genetic test indicate that the
2 specific threshold probability, as set by subsection i. of this section
3 to establish paternity has been met or exceeded, the results shall be
4 received in evidence as a rebuttable presumption of paternity
5 without requiring any additional foundation testimony or proof of
6 authenticity or accuracy of the paternity testing or results. In actions
7 based on allegations of fraud or inaccurate analysis, the court or the
8 county welfare agency shall require that additional blood or genetic
9 tests be scheduled within 10 days of the request and be performed
10 by qualified experts. Additional blood or genetic tests shall be paid
11 for in advance by the requesting party.

12 If a party objects to the results of the blood or genetic tests, the
13 party shall make the objection to the appropriate agency, in writing,
14 within 10 days of the consent conference or hearing.

15 e. The guardian ad litem may accept or refuse to accept a
16 recommendation under this section.

17 f. (Deleted by amendment, P.L.1994, c.164).

18 g. No evidence, testimony or other disclosure from the consent
19 conference shall be admitted as evidence in a civil action except by
20 consent of the parties. However, blood tests or genetic tests ordered
21 pursuant to subsection d. of this section shall be admitted as
22 evidence.

23 h. The refusal to submit to a blood test or genetic test required
24 pursuant to subsection d. of this section, or both, shall be admitted
25 into evidence and shall give rise to the presumption that the results
26 of the test would have been unfavorable to the interests of the party
27 who refused to submit to the test. Refusal to submit to a blood test
28 or genetic test, or both, is also subject to the contempt power of the
29 court.

30 i. Blood test or genetic test results indicating a 95% or greater
31 probability that the alleged father is the father of the child shall
32 create a presumption of paternity which may be rebutted only by
33 clear and convincing evidence that the results of the test are not
34 reliable in that particular case.

35 j. If a party refuses to acknowledge paternity or does not
36 appear at a consent conference conducted by the county welfare
37 agency, the county welfare agency shall refer the matter to the court
38 for adjudication. For purposes of establishing paternity, the blood
39 or genetic test results shall be admitted into evidence at the hearing
40 without the need for foundation testimony or other proof of
41 authenticity or accuracy, unless an objection is made.

42 k. Nothing in this section shall preclude an action pursuant to
43 section 6 of P.L. , c. (C.)(pending before the Legislature as
44 this bill).

45 (cf: P.L.1998, c.1, s.40)

46

47 5. Section 16 of P.L.1983, c. 17 (C.9:17-53) is amended to read
48 as follows:

1 16. a. **[The]** Except as provided in section 6 of P.L. _____,
2 c. (C. _____)(pending before the Legislature as this bill) the
3 judgment or order of the court or a Certificate of Parentage
4 determining the existence or nonexistence of the parent and child
5 relationship is determinative for all purposes.

6 b. If the judgment or order of the court is at variance with the
7 child's birth certificate, the court shall order that an amendment to
8 the original birth record be made under section 22 of P.L.1983, c.17
9 (C.9:17-59).

10 c. The judgment or order may contain any other provision
11 directed against the appropriate party to the proceeding concerning
12 the duty of support, the custody and guardianship of the child,
13 parenting time privileges with the child, the furnishing of bond or
14 other security for the payment of the judgment, the repayment of
15 any public assistance grant, or any other matter in the best interests
16 of the child. The judgment or order may direct the father to pay the
17 reasonable expenses of the mother's pregnancy and postpartum
18 disability, including repayment to an agency which provided public
19 assistance funds for those expenses. Bills for pregnancy, childbirth
20 and blood or genetic testing are admissible as evidence without
21 requiring third party foundation testimony, and shall constitute
22 prima facie evidence of the amounts incurred for these services or
23 for testing on behalf of the child.

24 d. Support judgments or orders ordinarily shall be for periodic
25 payments, which may vary in amount. In the best interests of the
26 child, the purchase of an annuity may be ordered in lieu of periodic
27 payments of support. The court may limit a parent's liability for
28 past support of the child to the proportion of the expenses already
29 incurred that the court deems just.

30 e. In determining the amount to be paid by a parent for support
31 of the child and the period during which the duty of support is
32 owed, the court shall apply the child support guidelines as defined
33 in section 3 of P.L.1998, c.1 (C.2A:17-56.52). In cases in which
34 the court finds that a deviation from these guidelines is appropriate,
35 the court shall consider all relevant facts when determining the
36 amount of support, including the:

37 (1) Needs of the child;

38 (2) Standard of living and economic circumstances of each
39 parent;

40 (3) Income and assets of each parent, including any public
41 assistance grant received by a parent;

42 (4) Earning ability of each parent, including educational
43 background, training, employment skills, work experience,
44 custodial responsibility for children and the length of time and cost
45 for each parent to obtain training or experience for appropriate
46 employment;

47 (5) Need and capacity of the child for education, including
48 higher education;

- 1 (6) Age and health of the child and each parent;
- 2 (7) Income, assets and earning ability of the child;
- 3 (8) Responsibility of the parents for the support of others; and
- 4 (9) Debts and liabilities of each child and parent.

5 The factors set forth herein are not intended to be exhaustive.
6 The court may consider such other factors as may be appropriate
7 under the circumstances.

8 The obligation to pay support for a child who has not been
9 emancipated by the court shall not terminate solely on the basis of
10 the child's age if the child suffers from a severe mental or physical
11 incapacity that causes the child to be financially dependent on a
12 parent. The obligation to pay support for that child shall continue
13 until the court finds that the child is relieved of the incapacity or is
14 no longer financially dependent on the parent. However, in
15 assessing the financial obligation of the parent, the court shall
16 consider, in addition to the factors enumerated in this section, the
17 child's eligibility for public benefits and services for people with
18 disabilities and may make such orders, including an order involving
19 the creation of a trust, as are necessary to promote the well-being of
20 the child.

21 As used in this section "severe mental or physical incapacity"
22 shall not include a child's abuse of, or addiction to, alcohol or
23 controlled substances.

24 f. Upon a motion by a party, the court shall enter a temporary
25 support order pending a judicial determination of parentage if there
26 is clear and convincing evidence of paternity supported by blood or
27 genetic test results or other evidence.

28 (cf: P.L.2005, c.171, s.3)

29

30 6. (New section) a. (1) Notwithstanding any provisions of the
31 law to the contrary, a person may file a motion for relief from a
32 final judgment or order that determines that the person referred to in
33 that judgment or order is the father of a child or that requires the
34 person to pay child support, unless the person has adopted the child
35 or the child was conceived as a result of artificial insemination
36 pursuant to section 7 of P.L.1983, c.17 (C.9:17-44). The motion for
37 relief from a judgment or order shall be filed in accordance with the
38 Rules of Court. The motion shall be supported by genetic test
39 results showing a 0% probability that the person is the father of the
40 child and a statement describing the fraud, duress or material
41 mistake of fact that preceded the entry of the final judgment or
42 order.

43 (2) If the court finds by a preponderance of the evidence that
44 there is a reason to proceed with the motion filed pursuant to
45 paragraph (1) of this subsection, the court shall order the child's
46 mother, the child and the alleged father to submit to genetic tests.
47 The court shall schedule the genetic testing no later than 30 days
48 after the court issues its order. The genetic tests shall be performed

1 by qualified examiners who are authorized by the court or the
2 Department of Human Services. An examiner conducting a genetic
3 test, upon the completion of the test, shall send a complete report of
4 the test results to the court that ordered the test.

5 (3) The refusal of the child, the mother, the alleged father or any
6 other designated individual to submit to a blood test or genetic test
7 required pursuant to this section shall be admitted into evidence and
8 shall give rise to the presumption that the results of the test would
9 have been unfavorable to the interests of the party who refused to
10 submit to the test. Refusal to submit to a blood test or genetic test,
11 or both, is also subject to the contempt power of the court. The
12 party refusing to submit to the test may be required to pay court
13 costs and reasonable attorney fees pursuant to section 17 of
14 P.L.1983, c.17 (C.9:17-54).

15 (4) The party requesting the genetic tests shall pay any fees
16 charged for the tests, unless the custodian of the child is represented
17 by the child support enforcement agency in its role as the agency
18 providing enforcement of child support orders, in which case the
19 child support enforcement agency shall pay the costs of genetic
20 testing if it requests the tests. The child support enforcement
21 agency or the person who paid the fees charged for the genetic
22 testing may seek reimbursement for the fees from the person against
23 whom the court assesses the costs of the action.

24 b. (1) Upon receipt of the genetic test results, a court may grant
25 relief from a final judgment or order that determines that a person is
26 the father of a child or that requires a person to pay child support
27 for a child if:

28 (a) the genetic test results show a 0% probability that the person
29 is the father of the child; and

30 (b) the court finds by clear and convincing evidence that the
31 final judgment or order was based on fraud, duress, or material
32 mistake of fact.

33 (2) In determining whether to grant relief from a paternity
34 judgment or order, the court shall consider: (a) the length of time
35 between the proceeding to adjudicate parentage and the time that
36 the presumed father was placed on notice that he might not be the
37 genetic father; (b) the assumed role of the father of the child; (c) the
38 facts surrounding the presumed father's discovery of his possible
39 non-paternity; (d) the nature of the father-child relationship; (e) the
40 age of the child; (f) the harm to the child which may result if
41 presumed paternity is successfully disproved; (g) the relationship of
42 the child to the alleged father; (h) the extent to which passage of
43 time reduces the chances of establishing the paternity of another
44 man and a child support obligation in favor of the child; and (i)
45 other factors that may affect the equities arising from the disruption
46 of the father-child relationship between the child and the presumed
47 father or the chance of other harm to the child.

48 (3) A court shall not deny relief from a final judgment or order

- 1 that determines that a person is the father of a child or that requires
2 a person to pay child support for a child on the following grounds:
- 3 (a) The person married the mother of the child;
 - 4 (b) The person acknowledged his paternity of the child in a
5 writing sworn to before a notary public;
 - 6 (c) The person was named as the child's natural father on the
7 child's birth certificate with the valid consent of the person;
 - 8 (d) The person was required to support the child because of a
9 written voluntary promise or by a court order or an administrative
10 support order;
 - 11 (e) The person validly signed the child's birth certificate;
 - 12 (f) The person was named in an acknowledgment of paternity of
13 the child that a court entered prior to this action;
 - 14 (g) The person was named in an acknowledgment of paternity of
15 the child that has become final under the "New Jersey Parentage
16 Act," P.L.1983, c.17 (C.9:17-38 et seq.);
 - 17 (h) The person was presumed to be the natural father of the child
18 under any of the circumstances listed in the "New Jersey Parentage
19 Act," P.L.1983, c.17 (C.9:17-38 et seq.);
 - 20 (i) The person was determined to be the father of the child in
21 any action under the "New Jersey Parentage Act," P.L.1983, c.17
22 (C.9:17-38 et seq.); or
 - 23 (j) The person otherwise admitted or acknowledged himself to
24 be the child's natural father.
- 25 c. A court shall not grant relief from a final judgment or order
26 that determines that a person is the father of a child or that requires
27 a person to pay child support for a child if blood or genetic
28 evidence was considered when the final judgment or order was
29 entered.
- 30 d. If a court grants relief from a judgment or order pursuant to
31 this section, the obligation to support the child and all legal rights to
32 the parentage of the child, including parenting time and decision-
33 making, are terminated.
- 34 e. If relief from a judgment or order for the payment of child
35 support is not granted pursuant to this section, the court may require
36 the person who filed the motion for relief to pay all court costs of
37 the action and the reasonable attorney's fees of the opposing party.
- 38 f. Except as otherwise provided in this section, a party is entitled
39 to obtain relief under this section regardless of whether the final
40 judgment or order from which relief is sought was issued prior to,
41 on, or after the effective date of P.L. , c. (C.)(pending
42 before the Legislature as this bill).
- 43 g. Except for good cause shown, the court shall not suspend the
44 legal responsibilities of a parent, including the obligation to pay
45 child support, during the pendency of an action to obtain relief from
46 a final judgment or order brought in accordance with P.L. , c.
47 (C.)(pending before the Legislature as this bill).

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1 7. (New section) a. Notwithstanding any other provision of law
2 to the contrary, the attending physician, midwife or person acting as
3 the agent of the physician or midwife, who was in attendance upon
4 the birth of an infant shall be responsible for the blood or genetic
5 testing of the infant to determine paternity. It shall be the
6 responsibility of personnel at the hospital or birthing facility to
7 inform the mother and father of the requirement for the blood or
8 genetic testing. The test shall be conducted by a qualified and
9 approved technical laboratory. It shall be the responsibility of
10 personnel at the hospital or birthing facility, within five days after
11 the birth, to inform the mother and biological father of the blood or
12 genetic testing. After the biological mother and biological father
13 have been informed of the results, the results shall be filed with the
14 local registrar's office in the municipality of birth of the child and in
15 accordance with the provisions of R.S.26:8-28.

16 b. The Commissioner of Health and Senior Services shall, in
17 accordance with the "Administrative Procedure Act," P.L.1968,
18 c.410 (C.52:14B-1 et seq.), adopt and promulgate such rules and
19 regulations as may be necessary for the implementation.
20

21 8. This act shall take effect on the 60th date after enactment
22 except prior to the effective date of the act any anticipatory
23 administrative action may be taken to implement the provisions of
24 the act.
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STATEMENT

28

29 This bill amends and supplements the "New Jersey Parentage
30 Act," to provide relief from judgment and modification of child
31 support orders under certain circumstances. The bill would also
32 require paternity testing for all infants at birth.

33 Under the provisions of the a person may file a motion for relief
34 from a paternity determination or child support order if the person
35 can prove that the paternity determination or child support order
36 was based on fraud, duress or material mistake of fact. The motion
37 for relief would be filed in accordance with the Rules of Court. The
38 person may not file a motion for relief if the person adopted the
39 child or the child was conceived as a result of artificial
40 insemination. The motion would be required to be supported by
41 genetic test results which show a 0% probability that the person is
42 the father of the child and a statement describing the fraud, duress
43 or material mistake of fact that preceded the entry of the final
44 judgment or order.

45 If the court finds by a preponderance of the evidence that there is
46 reason to proceed with the motion for relief, the court would order
47 the child's mother, the child and the alleged father to submit to
48 genetic tests. The tests would be scheduled no later than 30 days

1 after the court issues its order. The bill requires that all genetic
2 testing would be performed by qualified examiners authorized by
3 the court or the Department of Human Services. Upon completion
4 of the test, the examiner conducting the test would send a complete
5 report of the test results to the court that ordered the test. If a party
6 refuses to take the test, the refusal would be admitted into evidence
7 and give rise to the presumption that the results of the test would
8 have been unfavorable to that party's interests. The party refusing to
9 submit to the test may be required to pay court costs and reasonable
10 attorney fees in accordance with N.J.S.A.9:17-54.

11 The bill specifies that the party requesting the testing is
12 responsible for paying any fees associated with the tests, unless the
13 custodian of the child is represented by a child support enforcement
14 agency, in which case that agency must pay the costs of the testing.
15 The bill also specifies that the agency or person who paid the fees
16 charged for the testing may seek reimbursement for those fees from
17 the person against whom the court assesses the costs of the action.

18 Under the provisions of the bill, the court would not deny a
19 motion for relief on the following grounds: (a) the person married
20 the mother of the child; (b) the person acknowledged paternity; or
21 (c) the person was named the father of the child on the birth
22 certificate; or (d) the person was required to support the child; (e)
23 the person signed the child's birth certificate; (f) the person was
24 named in an acknowledgment of paternity of the child that a court
25 entered prior to this action; (g) the person was named in an
26 acknowledgment of paternity of the child that has become final; (h)
27 the person was presumed to be the natural father of the child; (i)
28 the person was determined to be the father of the child in an action;
29 or (j) the person otherwise admitted or acknowledged himself to be
30 the child's natural father.

31 Under the provisions of the bill, a court shall not grant a motion
32 for relief from a final judgment or order that determines that a
33 person is the father of a child or that requires a person to pay child
34 support for a child if blood or genetic evidence was considered
35 when that final judgment or order was entered.

36 If the court grants a motion for relief, the obligation to support
37 the child and all legal rights to the parentage of the child, including
38 parenting time and decision-making, would be terminated.

39 The bill also provides that if relief is not granted, the court shall
40 require the person filing the action to pay all court costs of the
41 action and reasonable attorney's fees of the opposing party.

42 The legal responsibilities of a parent, including the obligation to
43 pay support, would not be suspended during the pendency of an
44 action.

45 In addition, this bill would require the attending physician,
46 midwife or person acting as the agent of the physician or midwife,
47 who was in attendance upon the birth of an infant to be responsible
48 for blood or genetic testing of the infant to determine paternity. The

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1 bill also provides that it shall be the responsibility of personnel at
2 the hospital or birthing facility to inform the mother and father of
3 the requirement for the blood or genetic testing. The test shall be
4 conducted by a qualified and approved technical laboratory. It shall
5 be the responsibility of personnel at the hospital or birthing facility,
6 within five days after the birth, to inform the mother and biological
7 father of the blood or genetic testing. After the biological mother
8 and biological father have been informed of the results, the results
9 shall be filed with the local registrar's office in the municipality of
10 birth of the child.