
Judiciary Committee

HB 1524

Title: An act relating to authorizing the termination of all legal responsibilities of a nonparent if genetic testing shows by clear and convincing evidence that a man is not the genetic father of a child.

Brief Description: Authorizing the termination of all legal responsibilities of a nonparent if genetic testing shows by clear and convincing evidence that a man is not the genetic father of a child.

Sponsors: Representatives Caldier, Young, Pike, Reykdal, Buys, Zeiger, Scott, Ormsby and Riccelli.

Brief Summary of Bill

- Establishes a process for a man to bring an action to challenge paternity, and remove all associated rights and responsibilities, if genetic testing demonstrates by clear and convincing evidence that the man is not the child's genetic parent.
- Creates a rebuttable presumption in proceedings to adjudicate parentage that genetic testing in is in the child's best interest.

Hearing Date: 2/17/15

Staff: Omeara Harrington (786-7136).

Background:

Establishing Parentage.

Parentage may be established under the Uniform Parentage Act (UPA) based on presumption, acknowledgment, or adjudication. A person is a presumed parent if the child was born in the context of marriage or domestic partnership, or shortly thereafter, or if the person resided with the child and openly held the child out as his or her own for the first two years of the child's life. A person is an acknowledged parent if the person signs an acknowledgment of paternity that is later filed with the State Registrar of Vital Statistics. A person is an adjudicated parent if the

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person's parentage was determined in a court proceeding. A judgment and order establishing parentage may include terms requiring provision of child support and payment of birth-related costs, and requiring amendment of the child's birth certificate. It must also make residential provisions for minor children.

Challenging Parentage.

The procedures and timelines for challenging parentage vary depending on whether the parentage is presumed, acknowledged, or adjudicated. In general, a challenge must be brought within four years of parentage being established, and is only permitted on limited grounds. An exception to the four-year statute of limitations exists for a presumed parent who did not cohabit or have sexual intercourse with the other parent during the probable time of conception if the presumed parent never treated the child as his or her own.

Genetic Testing.

In a parentage adjudication, parentage of a presumed, adjudicated, or acknowledged parent may be disproved only by admissible results of genetic testing. There are specific procedures for when genetic testing can be ordered in a parentage action and when a motion for genetic testing may be denied. With certain exceptions, genetic testing must be ordered when supported by a sworn statement of a party alleging or denying the requisite sexual contact between the parties for conception of a child.

A court may deny a motion for genetic testing if the conduct of the mother or father or the presumed or acknowledged parent estops that party from denying parentage, and it would be inequitable to disprove the parent-child relationship or the child was conceived through assisted reproduction. The court must consider the best interest of the child in determining whether to deny a motion for genetic testing.

Summary of Bill:

Challenging Parentage.

A man may file a petition in superior court to rescind an acknowledgement of paternity, challenge a presumption of paternity, or contest an adjudication of paternity if genetic testing shows by clear and convincing evidence that the man is not the genetic father of the child. A man who successfully disproves genetic fatherhood may file a valid denial of paternity with the State Registrar of Vital Statistics. From the date of the filing, the man is discharged from all of the rights and duties of a parent, including any obligation to pay child support.

Such action may be brought within two years of the date on which the petitioner becomes aware of the facts alleged in the petition indicating that the petitioner is not the child's genetic father, or two years from the effective date of the bill. The process does not apply if the man is the adoptive father or the child was conceived by assisted reproduction with the man's consent and intent to be the parent of the child.

Genetic Testing.

The court may not deny genetic testing if the presumed father did not know he was not the genetic father of the child and has filed a petition to challenge paternity.

The court's authority to deny genetic testing upon a determination that it would be inequitable to disprove the parent-child relationship is removed. It is presumed that it is in the child's best interest to accurately determine the child's parentage as soon as possible; however this presumption may be rebutted by clear and convincing evidence that determination of parentage is not in the child's best interest.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.