

AN ACT concerning children.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Public Aid Code is amended by changing Section 10-17.7 as follows:

(305 ILCS 5/10-17.7)

Sec. 10-17.7. Administrative determination of paternity. The Illinois Department may provide by rule for the administrative determination of paternity by the Child and Spouse Support Unit in cases involving applicants for or recipients of financial aid under Article IV of this Act and other persons who are given access to the child support enforcement services of this Article as provided in Section 10-1, including persons similarly situated and receiving similar services in other states. The rules shall extend to cases in which the mother and alleged father voluntarily acknowledge paternity in the form required by the Illinois Department or agree to be bound by the results of genetic testing or in which the alleged father has failed to respond to a notification of support obligation issued under Section 10-4 and to cases of contested paternity. The Illinois Department's form for voluntary acknowledgement of paternity shall be the same form prepared by the Illinois Department for use under the

requirements of Section 12 of the Vital Records Act. Any presumption provided for under the Illinois Parentage Act of 1984 shall apply to cases in which paternity is determined under the rules of the Illinois Department. The rules shall provide for notice and an opportunity to be heard by the responsible relative and the person receiving child support enforcement services under this Article if paternity is not voluntarily acknowledged, and any final administrative decision rendered by the Illinois Department shall be reviewed only under and in accordance with the Administrative Review Law. Determinations of paternity made by the Illinois Department under the rules authorized by this Section shall have the full force and effect of a court judgment of paternity entered under the Illinois Parentage Act of 1984.

In determining paternity in contested cases, the Illinois Department shall conduct the evidentiary hearing in accordance with Section 11 of the Parentage Act of 1984, except that references in that Section to "the court" shall be deemed to mean the Illinois Department's hearing officer in cases in which paternity is determined administratively by the Illinois Department.

Notwithstanding any other provision of this Article, a default determination of paternity may be made if service of the notice under Section 10-4 was made by publication under the rules for administrative paternity determination authorized by this Section. The rules as they pertain to service by

publication shall (i) be based on the provisions of Section 2-206 and 2-207 of the Code of Civil Procedure, (ii) provide for service by publication in cases in which the whereabouts of the alleged father are unknown after diligent location efforts by the Child and Spouse Support Unit, and (iii) provide for publication of a notice of default paternity determination in the same manner that the notice under Section 10-4 was published.

The Illinois Department may implement this Section through the use of emergency rules in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For purposes of the Illinois Administrative Procedure Act, the adoption of rules to implement this Section shall be considered an emergency and necessary for the public interest, safety, and welfare.

(Source: P.A. 92-590, eff. 7-1-02.)

Section 10. The Vital Records Act is amended by changing Section 12 as follows:

(410 ILCS 535/12) (from Ch. 111 1/2, par. 73-12)

Sec. 12. Live births; place of registration.

(1) Each live birth which occurs in this State shall be registered with the local or subregistrar of the district in which the birth occurred as provided in this Section, within 7 days after the birth. When a birth occurs on a moving conveyance, the city, village, township, or road district in

which the child is first removed from the conveyance shall be considered the place of birth and a birth certificate shall be filed in the registration district in which the place is located.

(2) When a birth occurs in an institution, the person in charge of the institution or his designated representative shall obtain and record all the personal and statistical particulars relative to the parents of the child that are required to properly complete the live birth certificate; shall secure the required personal signatures on the hospital worksheet; shall prepare the certificate from this worksheet; and shall file the certificate with the local registrar. The institution shall retain the hospital worksheet permanently or as otherwise specified by rule. The physician in attendance shall verify or provide the date of birth and medical information required by the certificate, within 24 hours after the birth occurs.

(3) When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth, or in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth, or in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in

charge of the premises where the birth occurred.

(4) Unless otherwise provided in this Act, if the mother was not married to the father of the child at either the time of conception or the time of birth, the name of the father shall be entered on the child's birth certificate only if the mother and the person to be named as the father have signed an acknowledgment of parentage in accordance with subsection (5).

Unless otherwise provided in this Act, if the mother was married at the time of conception or birth and the presumed father (that is, the mother's husband) is not the biological father of the child, the name of the biological father shall be entered on the child's birth certificate only if, in accordance with subsection (5), (i) the mother and the person to be named as the father have signed an acknowledgment of parentage and (ii) the mother and presumed father have signed a denial of paternity.

(5) Upon the birth of a child to an unmarried woman, or upon the birth of a child to a woman who was married at the time of conception or birth and whose husband is not the biological father of the child, the institution at the time of birth and the local registrar or county clerk after the birth shall do the following:

(a) Provide (i) an opportunity for the child's mother and father to sign an acknowledgment of parentage and (ii) if the presumed father is not the biological father, an opportunity for the mother and presumed father to sign a

denial of paternity. The signing and witnessing of the acknowledgment of parentage or, if the presumed father of the child is not the biological father, the acknowledgment of parentage and denial of paternity conclusively establishes a parent and child relationship in accordance with Sections 5 and 6 of the Illinois Parentage Act of 1984.

The Department of Healthcare and Family Services shall furnish the acknowledgment of parentage and denial of paternity form to institutions, county clerks, and State and local registrars' offices. The form shall include instructions to send the original signed and witnessed acknowledgment of parentage and denial of paternity to the Department of Healthcare and Family Services. The acknowledgment of paternity and denial of paternity form shall also include a statement informing the mother, the alleged father, and the presumed father, if any, that they have the right to request deoxyribonucleic acid (DNA) tests regarding the issue of the child's paternity and that by signing the form, they expressly waive such tests. The statement shall be set forth in boldface capital letters not less than 0.25 inches in height.

(b) Provide the following documents, furnished by the Department of Healthcare and Family Services, to the child's mother, biological father, and (if the person presumed to be the child's father is not the biological

father) presumed father for their review at the time the opportunity is provided to establish a parent and child relationship:

(i) An explanation of the implications of, alternatives to, legal consequences of, and the rights and responsibilities that arise from signing an acknowledgment of parentage and, if necessary, a denial of paternity, including an explanation of the parental rights and responsibilities of child support, visitation, custody, retroactive support, health insurance coverage, and payment of birth expenses.

(ii) An explanation of the benefits of having a child's parentage established and the availability of parentage establishment and child support enforcement services.

(iii) A request for an application for child support enforcement services from the Department of Healthcare and Family Services.

(iv) Instructions concerning the opportunity to speak, either by telephone or in person, with staff of the Department of Healthcare and Family Services who are trained to clarify information and answer questions about paternity establishment.

(v) Instructions for completing and signing the acknowledgment of parentage and denial of paternity.

(c) Provide an oral explanation of the documents and

instructions set forth in subdivision (5)(b), including an explanation of the implications of, alternatives to, legal consequences of, and the rights and responsibilities that arise from signing an acknowledgment of parentage and, if necessary, a denial of paternity. The oral explanation may be given in person or through the use of video or audio equipment.

(6) The institution, State or local registrar, or county clerk shall provide an opportunity for the child's father or mother to sign a rescission of parentage. The signing and witnessing of the rescission of parentage voids the acknowledgment of parentage and nullifies the presumption of paternity if executed and filed with the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) within the time frame contained in Section 5 of the Illinois Parentage Act of 1984. The Department of Healthcare and Family Services shall furnish the rescission of parentage form to institutions, county clerks, and State and local registrars' offices. The form shall include instructions to send the original signed and witnessed rescission of parentage to the Department of Healthcare and Family Services.

(7) An acknowledgment of paternity signed pursuant to Section 6 of the Illinois Parentage Act of 1984 may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenging party. Pending outcome of a challenge to the

acknowledgment of paternity, the legal responsibilities of the signatories shall remain in full force and effect, except upon order of the court upon a showing of good cause.

(8) When the process for acknowledgment of parentage as provided for under subsection (5) establishes the paternity of a child whose certificate of birth is on file in another state, the Department of Healthcare and Family Services shall forward a copy of the acknowledgment of parentage, the denial of paternity, if applicable, and the rescission of parentage, if applicable, to the birth record agency of the state where the child's certificate of birth is on file.

(9) In the event the parent-child relationship has been established in accordance with subdivision (a)(1) of Section 6 of the Parentage Act of 1984, the names of the biological mother and biological father so established shall be entered on the child's birth certificate, and the names of the surrogate mother and surrogate mother's husband, if any, shall not be on the birth certificate.

(Source: P.A. 95-331, eff. 8-21-07.)

Section 15. The Criminal Code of 1961 is amended by changing Section 10-5.5 as follows:

(720 ILCS 5/10-5.5)

Sec. 10-5.5. Unlawful visitation or parenting time interference.

(a) As used in this Section, the terms "child", "detain", and "lawful custodian" shall have the meanings ascribed to them in Section 10-5 of this Code.

(b) Every person who, in violation of the visitation, parenting time, or custody time provisions of a court order relating to child custody, detains or conceals a child with the intent to deprive another person of his or her rights to visitation, parenting time, or custody time shall be guilty of unlawful visitation or parenting time interference.

(c) A person committing unlawful visitation or parenting time interference is guilty of a petty offense. However, any person violating this Section after 2 prior convictions of unlawful visitation interference or unlawful visitation or parenting time interference is guilty of a Class A misdemeanor.

(d) Any law enforcement officer who has probable cause to believe that a person has committed or is committing an act in violation of this Section shall issue to that person a notice to appear.

(e) The notice shall:

- (1) be in writing;
- (2) state the name of the person and his address, if known;
- (3) set forth the nature of the offense;
- (4) be signed by the officer issuing the notice; and
- (5) request the person to appear before a court at a certain time and place.

(f) Upon failure of the person to appear, a summons or warrant of arrest may be issued.

(g) It is an affirmative defense that:

(1) a person or lawful custodian committed the act to protect the child from imminent physical harm, provided that the defendant's belief that there was physical harm imminent was reasonable and that the defendant's conduct in withholding visitation rights, parenting time, or custody time was a reasonable response to the harm believed imminent;

(2) the act was committed with the mutual consent of all parties having a right to custody and visitation of the child or parenting time with the child; or

(3) the act was otherwise authorized by law.

(h) A person convicted of unlawful visitation or parenting time interference shall not be subject to a civil contempt citation for the same conduct for violating visitation, parenting time, or custody time provisions of a court order issued under the Illinois Marriage and Dissolution of Marriage Act.

(Source: P.A. 88-96.)

Section 20. Illinois Marriage and Dissolution of Marriage Act is amended by changing Section 607.1 as follows:

(750 ILCS 5/607.1) (from Ch. 40, par. 607.1)

Sec. 607.1. Enforcement of visitation orders; visitation abuse.

(a) The circuit court shall provide an expedited procedure for enforcement of court ordered visitation in cases of visitation abuse. Visitation abuse occurs when a party has willfully and without justification: (1) denied another party visitation as set forth by the court; or (2) exercised his or her visitation rights in a manner that is harmful to the child or child's custodian.

(b) An Action may be commenced by filing a petition setting forth: (i) the petitioner's name, residence address or mailing address, and telephone number; (ii) respondent's name and place of residence, place of employment, or mailing address; (iii) the nature of the visitation abuse, giving dates and other relevant information; (iv) that a reasonable attempt was made to resolve the dispute; and (v) the relief sought.

Notice of the filing of the petitions shall be given as provided in Section 511.

(c) After hearing all of the evidence, the court may order one or more of the following:

(1) Modification of the visitation order to specifically outline periods of visitation or restrict visitation as provided by law.

(2) Supervised visitation with a third party or public agency.

(3) Make up visitation of the same time period, such as

weekend for weekend, holiday for holiday.

(4) Counseling or mediation, except in cases where there is evidence of domestic violence, as defined in Section 1 of the Domestic Violence Shelters Act, occurring between the parties.

(5) Other appropriate relief deemed equitable.

(d) Nothing contained in this Section shall be construed to limit the court's contempt power, except as provided in subsection (g) of this Section.

(e) When the court issues an order holding a party in contempt of court for violation of a visitation order, the clerk shall transmit a copy of the contempt order to the sheriff of the county. The sheriff shall furnish a copy of each contempt order to the Department of State Police on a daily basis in the form and manner required by the Department. The Department shall maintain a complete record and index of the contempt orders and make this data available to all local law enforcement agencies.

(f) Attorney fees and costs shall be assessed against a party if the court finds that the enforcement action is vexatious and constitutes harassment.

(g) A person convicted of unlawful visitation or parenting time interference under Section 10-5.5 of the Criminal Code of 1961 shall not be subject to the provisions of this Section and the court may not enter a contempt order for visitation abuse against any person for the same conduct for which the person

was convicted of unlawful visitation interference or subject that person to the sanctions provided for in this Section.

(Source: P.A. 87-895; 88-96.)

Section 25. The Illinois Parentage Act of 1984 is amended by changing Section 11 as follows:

(750 ILCS 45/11) (from Ch. 40, par. 2511)

Sec. 11. Tests to determine inherited characteristics.

(a) In any action brought under Section 7 to determine the existence of the father and child relationship or to declare the non-existence of the parent and child relationship, the court or Administrative Hearing Officer in an Expedited Child Support System shall, prior to the entry of a judgment in the case, advise the respondent who appears of the right to request an order that the parties and the child submit to deoxyribonucleic acid (DNA) tests to determine inherited characteristics. The advisement shall be noted in the record.

As soon as practicable, the court or Administrative Hearing Officer in an Expedited Child Support System may, and upon request of a party shall, order or direct the mother, child and alleged father to submit to deoxyribonucleic acid (DNA) tests to determine inherited characteristics. If any party refuses to submit to the tests, the court may resolve the question of paternity against that party or enforce its order if the rights of others and the interests of justice so require.

(b) The tests shall be conducted by an expert qualified as an examiner of blood or tissue types and appointed by the court. The expert shall determine the testing procedures. However, any interested party, for good cause shown, in advance of the scheduled tests, may request a hearing to object to the qualifications of the expert or the testing procedures. The expert appointed by the court shall testify at the pre-test hearing at the expense of the party requesting the hearing, except as provided in subsection (h) of this Section for an indigent party. An expert not appointed by the court shall testify at the pre-test hearing at the expense of the party retaining the expert. Inquiry into an expert's qualifications at the pre-test hearing shall not affect either parties' right to have the expert qualified at trial.

(c) The expert shall prepare a written report of the test results. If the test results show that the alleged father is not excluded, the report shall contain a combined paternity index relating to the probability of paternity. The expert may be called by the court as a witness to testify to his or her findings and, if called, shall be subject to cross-examination by the parties. If the test results show that the alleged father is not excluded, any party may demand that other experts, qualified as examiners of blood or tissue types, perform independent tests under order of court, including, but not limited to, blood types or other tests of genetic markers such as those found by Human Leucocyte Antigen (HLA) tests. The

results of the tests may be offered into evidence. The number and qualifications of the experts shall be determined by the court.

(d) Documentation of the chain of custody of the blood or tissue samples, accompanied by an affidavit or certification in accordance with Section 1-109 of the Code of Civil Procedure, is competent evidence to establish the chain of custody.

(e) The report of the test results prepared by the appointed expert shall be made by affidavit or by certification as provided in Section 1-109 of the Code of Civil Procedure and shall be mailed to all parties. A proof of service shall be filed with the court. The verified report shall be admitted into evidence at trial without foundation testimony or other proof of authenticity or accuracy, unless a written motion challenging the admissibility of the report is filed by either party within 28 days of receipt of the report, in which case expert testimony shall be required. A party may not file such a motion challenging the admissibility of the report later than 28 days before commencement of trial. Before trial, the court shall determine whether the motion is sufficient to deny admission of the report by verification. Failure to make that timely motion constitutes a waiver of the right to object to admission by verification and shall not be grounds for a continuance of the hearing to determine paternity.

(f) Tests taken pursuant to this Section shall have the following effect:

(1) If the court finds that the conclusion of the expert or experts, as disclosed by the evidence based upon the tests, is that the alleged father is not the parent of the child, the question of paternity shall be resolved accordingly.

(2) If the experts disagree in their findings or conclusions, the question shall be weighed with other competent evidence of paternity.

(3) If the tests show that the alleged father is not excluded and that the combined paternity index is less than 500 to 1, this evidence shall be admitted by the court and shall be weighed with other competent evidence of paternity.

(4) If the tests show that the alleged father is not excluded and that the combined paternity index is at least 500 to 1, the alleged father is presumed to be the father, and this evidence shall be admitted. This presumption may be rebutted by clear and convincing evidence.

(g) Any presumption of parentage as set forth in Section 5 of this Act is rebutted if the court finds that the conclusion of the expert or experts excludes paternity of the presumed father.

(h) The expense of the tests shall be paid by the party who requests the tests. Where the tests are requested by the party seeking to establish paternity and that party is found to be indigent by the court, the expense shall be paid by the public

agency providing representation; except that where a public agency is not providing representation, the expense shall be paid by the county in which the action is brought. Where the tests are ordered by the court on its own motion or are requested by the alleged or presumed father and that father is found to be indigent by the court, the expense shall be paid by the county in which the action is brought. Any part of the expense may be taxed as costs in the action, except that no costs may be taxed against a public agency that has not requested the tests.

(i) The compensation of each expert witness appointed by the court shall be paid as provided in subsection (h) of this Section. Any part of the payment may be taxed as costs in the action, except that no costs may be taxed against a public agency that has not requested the services of the expert witness.

(j) Nothing in this Section shall prevent any party from obtaining tests of his or her own blood or tissue independent of those ordered by the court or from presenting expert testimony interpreting those tests or any other blood tests ordered pursuant to this Section. Reports of all the independent tests, accompanied by affidavit or certification pursuant to Section 1-109 of the Code of Civil Procedure, and notice of any expert witnesses to be called to testify to the results of those tests shall be submitted to all parties at least 30 days before any hearing set to determine the issue of

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parentage.

(Source: P.A. 87-428; 87-435; 88-353; 88-687, eff. 1-24-95.)

Section 99. Effective date. This Act takes effect upon becoming law.

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Statutes amended in order of appearance

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750 ILCS 5/607.1

from Ch. 40, par. 607.1

750 ILCS 45/11

from Ch. 40, par. 2511