

1 AN ACT concerning children.

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

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

6 (305 ILCS 5/10-17.7)

7 Sec. 10-17.7. Administrative determination of paternity.
8 The Illinois Department may provide by rule for the
9 administrative determination of paternity by the Child and
10 Spouse Support Unit in cases involving applicants for or
11 recipients of financial aid under Article IV of this Act and
12 other persons who are given access to the child support
13 enforcement services of this Article as provided in Section
14 10-1, including persons similarly situated and receiving
15 similar services in other states. The rules shall extend to
16 cases in which the mother and alleged father voluntarily
17 acknowledge paternity in the form required by the Illinois
18 Department or agree to be bound by the results of genetic
19 testing or in which the alleged father has failed to respond to
20 a notification of support obligation issued under Section 10-4
21 and to cases of contested paternity. The Illinois Department's
22 form for voluntary acknowledgement of paternity shall be the
23 same form prepared by the Illinois Department for use under the

1 requirements of Section 12 of the Vital Records Act. Any
2 presumption provided for under the Illinois Parentage Act of
3 1984 shall apply to cases in which paternity is determined
4 under the rules of the Illinois Department. The rules shall
5 provide for notice and an opportunity to be heard by the
6 responsible relative and the person receiving child support
7 enforcement services under this Article if paternity is not
8 voluntarily acknowledged, and any final administrative
9 decision rendered by the Illinois Department shall be reviewed
10 only under and in accordance with the Administrative Review
11 Law. Determinations of paternity made by the Illinois
12 Department under the rules authorized by this Section shall
13 have the full force and effect of a court judgment of paternity
14 entered under the Illinois Parentage Act of 1984.

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

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

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

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

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

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

18 (410 ILCS 535/12) (from Ch. 111 1/2, par. 73-12)

19 Sec. 12. Live births; place of registration.

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

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

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

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

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

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

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

1 charge of the premises where the birth occurred.

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

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

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

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

1 denial of paternity. The signing and witnessing of the
2 acknowledgment of parentage or, if the presumed father of
3 the child is not the biological father, the acknowledgment
4 of parentage and denial of paternity conclusively
5 establishes a parent and child relationship in accordance
6 with Sections 5 and 6 of the Illinois Parentage Act of
7 1984.

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

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

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

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

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

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

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

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

26 (c) Provide an oral explanation of the documents and

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

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

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

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

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

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

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

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

22 (720 ILCS 5/10-5.5)

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

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

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

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

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

19 (e) The notice shall:

20 (1) be in writing;

21 (2) state the name of the person and his address, if
22 known;

23 (3) set forth the nature of the offense;

24 (4) be signed by the officer issuing the notice; and

25 (5) request the person to appear before a court at a
26 certain time and place.

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

3 (g) It is an affirmative defense that:

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

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

14 (3) the act was otherwise authorized by law.

15 (h) A person convicted of unlawful visitation or parenting
16 time interference shall not be subject to a civil contempt
17 citation for the same conduct for violating visitation, parenting time, or custody time provisions of a court order
18 issued under the Illinois Marriage and Dissolution of Marriage
19 Act.
20

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

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

24 (750 ILCS 5/607.1) (from Ch. 40, par. 607.1)

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

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

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

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

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

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

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

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

1 weekend for weekend, holiday for holiday.

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

6 (5) Other appropriate relief deemed equitable.

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

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

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

22 (g) A person convicted of unlawful visitation or parenting
23 time interference under Section 10-5.5 of the Criminal Code of
24 1961 shall not be subject to the provisions of this Section and
25 the court may not enter a contempt order for visitation abuse
26 against any person for the same conduct for which the person

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

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

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

6 (750 ILCS 45/11) (from Ch. 40, par. 2511)

7 Sec. 11. Tests to determine inherited characteristics.

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

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

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

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

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

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

8 (e) The report of the test results prepared by the
9 appointed expert shall be made by affidavit or by certification
10 as provided in Section 1-109 of the Code of Civil Procedure and
11 shall be mailed to all parties. A proof of service shall be
12 filed with the court. The verified report shall be admitted
13 into evidence at trial without foundation testimony or other
14 proof of authenticity or accuracy, unless a written motion
15 challenging the admissibility of the report is filed by either
16 party within 28 days of receipt of the report, in which case
17 expert testimony shall be required. A party may not file such a
18 motion challenging the admissibility of the report later than
19 28 days before commencement of trial. Before trial, the court
20 shall determine whether the motion is sufficient to deny
21 admission of the report by verification. Failure to make that
22 timely motion constitutes a waiver of the right to object to
23 admission by verification and shall not be grounds for a
24 continuance of the hearing to determine paternity.

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

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

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

9 (3) If the tests show that the alleged father is not
10 excluded and that the combined paternity index is less than
11 500 to 1, this evidence shall be admitted by the court and
12 shall be weighed with other competent evidence of
13 paternity.

14 (4) If the tests show that the alleged father is not
15 excluded and that the combined paternity index is at least
16 500 to 1, the alleged father is presumed to be the father,
17 and this evidence shall be admitted. This presumption may
18 be rebutted by clear and convincing evidence.

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

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

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

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

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

1 parentage.

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

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

1 INDEX

2 Statutes amended in order of appearance

3 305 ILCS 5/10-17.7

4 410 ILCS 535/12 from Ch. 111 1/2, par. 73-12

5 720 ILCS 5/10-5.5

6 750 ILCS 5/607.1 from Ch. 40, par. 607.1

7 750 ILCS 45/11 from Ch. 40, par. 2511