

1 AN ACT concerning civil law.

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

4 Section 5. The Illinois Parentage Act of 1984 is amended by
5 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

1 of others and the interests of justice so require.

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

16 (b-1) Genetic testing must be of a type reasonably relied
17 upon by experts in the field of genetic testing and performed
18 in a testing laboratory accredited by the American Association
19 of Blood Banks, or a successor to its functions.

20 (b-2) A specimen used in genetic testing may consist of one
21 or more samples, or a combination of samples, of blood, buccal
22 cells, bone, hair, or other body tissue or fluid.

23 (b-3) The testing laboratory shall determine the databases
24 from which to select frequencies for use in calculation of the
25 probability of paternity based on the ethnic or racial group of
26 an individual. If there is disagreement as to the testing

1 laboratory's choice, the following procedures apply:

2 (1) The individual objecting may require the testing
3 laboratory, within 30 days after receipt of the report of
4 the test, to recalculate the probability of paternity using
5 an ethnic or racial group different from that used by the
6 laboratory.

7 (2) The individual objecting to the testing
8 laboratory's initial choice shall:

9 (A) if the frequencies are not available to the
10 testing laboratory for the ethnic or racial group
11 requested, provide the requested frequencies compiled
12 in a manner recognized by accrediting bodies; or

13 (B) engage another testing laboratory to perform
14 the calculations.

15 (b-4) If, after recalculation using a different ethnic or
16 racial group, genetic testing does not rebuttably identify a
17 man as the father of a child, an individual who has been tested
18 may be required to submit to additional genetic testing.

19 (c) The expert shall prepare a written report of the test
20 results. If the test results show that the alleged father is
21 not excluded, the report shall contain statistics based upon
22 the statistical formula of Combined Paternity Index (CPI) and
23 the Probability of Paternity as determined by the probability
24 of exclusion (Random Man Not Excluded = RMNE) ~~a combined~~
25 paternity index relating to the probability of paternity. The
26 expert may be called by the court as a witness to testify to

1 his or her findings and, if called, shall be subject to
2 cross-examination by the parties. If the test results show that
3 the alleged father is not excluded, any party may demand that
4 other experts, qualified as examiners of blood or tissue types,
5 perform independent tests under order of court, including, but
6 not limited to, blood types or other tests of genetic markers
7 ~~such as those found by Human Leucocyte Antigen (HLA) tests~~. The
8 results of the tests may be offered into evidence. The number
9 and qualifications of the experts shall be determined by the
10 court.

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

15 (e) The report of the test results prepared by the
16 appointed expert shall be made by affidavit or by certification
17 as provided in Section 1-109 of the Code of Civil Procedure and
18 shall be mailed to all parties. A proof of service shall be
19 filed with the court. The verified report shall be admitted
20 into evidence at trial without foundation testimony or other
21 proof of authenticity or accuracy, unless a written motion
22 challenging the admissibility of the report is filed by either
23 party within 28 days of receipt of the report, in which case
24 expert testimony shall be required. A party may not file such a
25 motion challenging the admissibility of the report later than
26 28 days before commencement of trial. Before trial, the court

1 shall determine whether the motion is sufficient to deny
2 admission of the report by verification. Failure to make that
3 timely motion constitutes a waiver of the right to object to
4 admission by verification and shall not be grounds for a
5 continuance of the hearing to determine paternity.

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

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

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

16 (3) If the tests show that the alleged father is not
17 excluded and that the combined paternity index is at least
18 1,000 to 1, and there is at least a 99.9 percent
19 probability of paternity, the alleged father is presumed to
20 be the father, and this evidence shall be admitted ~~less~~
21 than 500 to 1, this evidence shall be admitted by the court
22 and shall be weighed with other competent evidence of
23 paternity.

24 (4) A man identified under paragraph (3) of subsection
25 (f) as the father of the child may rebut the genetic
26 testing results by other genetic testing satisfying the

1 requirements of this Act which:

2 (A) excludes the man as a genetic father of the
3 child; or

4 (B) identifies another man as the possible father
5 of the child. ~~If the tests show that the alleged father~~
6 ~~is not excluded and that the combined paternity index~~
7 ~~is at least 500 to 1, the alleged father is presumed to~~
8 ~~be the father, and this evidence shall be admitted.~~
9 ~~This presumption may be rebutted by clear and~~
10 ~~convincing evidence.~~

11 (5) Except as otherwise provided in this Act, if more
12 than one man is identified by genetic testing as the
13 possible father of the child, the court shall order them to
14 submit to further genetic testing to identify the genetic
15 father.

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

20 (h) The expense of the tests shall be paid by the party who
21 requests the tests, except that the court may apportion the
22 costs between the parties, upon request. Where the tests are
23 requested by the party seeking to establish paternity and that
24 party is found to be indigent by the court, the expense shall
25 be paid by the public agency providing representation; except
26 that where a public agency is not providing representation, the

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

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

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

26 (Source: P.A. 96-333, eff. 8-11-09; 96-474, eff. 8-14-09.)