

AN ACT concerning civil law.

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

Section 5. 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.

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

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

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

laboratory's choice, the following procedures apply:

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

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

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

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

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

(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 statistics based upon the statistical formula of Combined Paternity Index (CPI) and the Probability of Paternity as determined by the probability of exclusion (Random Man Not Excluded = RMNE) ~~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 at least 1,000 to 1, and there is at least a 99.9 percent probability of paternity, the alleged father is presumed to be the father, and this evidence shall be admitted ~~less than 500 to 1, this evidence shall be admitted by the court and shall be weighed with other competent evidence of paternity.~~

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

requirements of this Act which:

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

(B) identifies another man as the possible father of the child. 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.

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

(g) (Blank). ~~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, except that the court may apportion the costs between the parties, upon request. 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 parentage.

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