

## SENATE SUBSTITUTE TO HB 369:

**AS PASSED SENATE****A BILL TO BE ENTITLED****AN ACT**

1 To amend Article 3 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated,  
2 relating to determination of paternity, so as to provide for a motion to set aside a  
3 determination of paternity based on newly discovered evidence regarding paternity of a child;  
4 to provide requirements for filing such a motion; to provide that relief on such motion shall  
5 be granted if genetic testing conclusively shows that the alleged father is not the biological  
6 father of the child and certain other conditions are met; to provide that such relief shall not  
7 be denied because of the prior occurrence of certain acts unless the alleged father acted with  
8 knowledge that he was not the biological father; to provide for additional testing; to provide  
9 for costs; to provide for relief; to provide for matters relative to the foregoing; to provide an  
10 effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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13 Article 3 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to  
14 determination of paternity, is amended by adding after Code Section 19-7-53, relating to  
15 confidentiality of hearings, a new Code section to read as follows:

16 "19-7-54.

17 (a) In any action in which a male is required to pay child support as the father of a child,  
18 a motion to set aside a determination of paternity may be made at any time upon the  
19 grounds set forth in this Code section. Any such motion shall be filed in the superior court  
20 and shall include:

21 (1) An affidavit executed by the movant that the newly discovered evidence has come  
22 to movant's knowledge since the entry of judgment; and

23 (2) The results from scientifically credible parentage-determination genetic testing, as  
24 authorized under Code Section 19-7-46 and administered within 90 days prior to the  
25 filing of such motion, that finds that there is a 0 percent probability that the male ordered  
26 to pay such child support is the father of the child for whom support is required.

(b) The court shall grant relief on a motion filed in accordance with subsection (a) of this Code section upon a finding by the court of all of the following:

(1) The genetic test required in paragraph (2) of subsection (a) of this Code section was properly conducted;

(2) The male ordered to pay child support has not adopted the child;

(3) The child was not conceived by artificial insemination while the male ordered to pay child support and the child's mother were in wedlock;

(4) The male ordered to pay child support did not act to prevent the biological father of the child from asserting his paternal rights with respect to the child; and

(5) The male ordered to pay child support with knowledge that he is not the biological father of the child has not:

(A) Married the mother of the child and voluntarily assumed the parental obligation and duty to pay child support;

(B) Acknowledged his paternity of the child in a sworn statement;

(C) Been named as the child's biological father on the child's birth certificate with his consent;

(D) Been required to support the child because of a written voluntary promise;

(E) Received written notice from the Department of Human Resources, any other state agency, or any court directing him to submit to genetic testing which he disregarded;

(F) Signed a voluntary acknowledgment of paternity as provided in Code Section 19-7-46.1; or

(G) Proclaimed himself to be the child's biological father.

(c) In the event movant fails to make the requisite showing provided in subsection (b) of this Code section, the court may grant the motion or enter an order as to paternity, duty to support, custody, and visitation privileges as otherwise provided by law.

(d) In the event relief is granted pursuant to subsection (b) of this Code section, relief shall be limited to the issues of prospective child support payments, past due child support payments, termination of parental rights, custody, and visitation rights.

(e) The duty to pay child support and other legal obligations for the child shall not be suspended while the motion is pending except for good cause shown; however, the court may order the child support be held in the registry of the court until final determination of paternity has been made.

(f)(1) In any action brought pursuant to this Code section, if the genetic test results submitted in accordance with paragraph (2) of subsection (a) of this Code section are provided solely by the male ordered to pay child support, the court on its own motion may, and on the motion of any party shall, order the child's mother, the child, and the

1 male ordered to pay child support to submit to genetic tests. The court shall provide that  
2 such genetic testing be done no more than 30 days after the court issues its order.

3 (2) If the mother of the child or the male ordered to pay child support willfully fails to  
4 submit to genetic testing, or if either such party is the custodian of the child and willfully  
5 fails to submit the child for testing, the court shall issue an order determining the relief  
6 on the motion against the party so failing to submit to genetic testing. If a party shows  
7 good cause for failing to submit to genetic testing, such failure shall not be considered  
8 willful.

9 (3) The party requesting genetic testing shall pay any fees charged for the tests. If the  
10 custodian of the child is receiving services from an administrative agency in its role as  
11 an agency providing enforcement of child support orders, such agency shall pay the cost  
12 of genetic testing if it requests the test and may seek reimbursement for the fees from the  
13 person against whom the court assesses the costs of the action.

14 (g) If relief on a motion filed in accordance with this Code section is not granted, the court  
15 shall assess the costs of the action and attorney's fees against the movant."

## 16 **SECTION 2.**

17 This Act shall become effective upon its approval by the Governor or upon its becoming law  
18 without such approval.

## 19 **SECTION 3.**

20 All laws and parts of laws in conflict with this Act are repealed.