

The House Committee on Judiciary offers the following substitute to HB 130:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 2 of Title 53 of the Official Code of Georgia Annotated,  
2 relating to judicial determination of heirs and interests, so as to provide for court orders for  
3 disinterment and DNA testing in certain cases where the kinship of any party in interest to  
4 a decedent is in controversy; to provide that an order for disinterment and DNA testing may  
5 be made only on motion for good cause shown and upon notice to all the parties in interest  
6 and shall specify the time, place, manner, conditions, and scope of the removal and testing  
7 of samples, and the person or persons by whom it is to be made; to provide that motions shall  
8 be supported by affidavits; to provide for the contents of affidavits; to provide that all parties  
9 in interest shall receive a copy of a detailed written report of the tester; to provide that certain  
10 costs of obtaining and testing of such samples shall be assessed against and paid by the  
11 moving party; to provide for related matters; to repeal conflicting laws; and for other  
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

14 Article 2 of Chapter 2 of Title 53 of the Official Code of Georgia Annotated, relating to  
15 judicial determination of heirs and interests, is amended by adding at the end thereof a new  
16 Code Section 53-2-27 to read as follows:  
17

18 "53-2-27.

19 (a) When the kinship of any party in interest to a decedent is in controversy in any  
20 proceeding under this article, a superior court may order the removal and testing of  
21 deoxyribonucleic acid (DNA) samples from the remains of the decedent and from any party  
22 in interest whose kinship to the decedent is in controversy for purposes of comparison and  
23 determination of the statistical likelihood of such kinship. The superior court may order the  
24 disinterment of the decedent's remains if reasonably necessary to obtain such samples. If  
25 the proceedings are pending in the probate court, the motion shall be transferred to the  
26 superior court for determination.

1 (b) The order may be made only on motion for good cause shown and upon notice to all  
2 parties in interest and shall specify the time, place, manner, conditions, and scope of the  
3 removal and testing of samples, and the person or persons by whom it is to be made. Such  
4 motion, when made by a party in interest, shall be supported by affidavit setting forth:

5 (1) The factual basis for a reasonable belief that the party in interest whose kinship to the  
6 decedent is in controversy is or is not so related; and

7 (2) If disinterment of the decedent's remains is sought, the factual basis for a reasonable  
8 belief that reliable DNA samples from the decedent are not otherwise reasonably  
9 available from any other source.

10 (c) Upon request, the movant shall deliver to all parties in interest a copy of a detailed  
11 written report of the tester and of any other expert involved in the determination of such  
12 statistical likelihood setting out his or her findings, including the results of all tests made  
13 and conclusions or opinions based thereon.

14 (d) The costs of obtaining and testing of such samples, including the costs of disinterment  
15 and reinterment of the remains of the decedent, if necessary, as well as the costs of  
16 providing the report, shall be assessed against and paid by the moving party."

17 **SECTION 2.**

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