

House Bill 130

By: Representatives Sims of the 167th, Stokes of the 92nd, Poag of the 6th, West of the 101st,
Jenkins of the 110th and others

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; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 2 of Chapter 2 of Title 53 of the Official Code of Georgia Annotated, relating to
8 judicial determination of heirs and interests, is amended by adding a new Code Section
9 53-2-27 to read as follows:

10 "53-2-27.

11 (a)(1)(A) In any proceeding under this article in superior court in which a party in
12 interest's claim of kinship with a decedent is at issue, any party in interest may make
13 a motion to the court to order temporary disinterment of the decedent's remains and
14 testing of deoxyribonucleic acid (DNA) samples from such remains and from such
15 claimant for purposes of comparison and obtaining evidence of the statistical likelihood
16 of such kinship.

17 (B) In any proceeding under this article in probate court in which a party in interest's
18 claim of kinship with a decedent is at issue, any party in interest may make such a
19 motion for disinterment and DNA testing, whereupon the probate court shall promptly
20 transfer such proceedings to the superior court for purposes of ruling on the motion and
21 judicial determination of the issue.

22 (2) Such motion shall be supported by a sworn statement:

23 (A) Alleging the claimant's kinship with the decedent and setting forth facts
24 establishing a reasonable possibility of such relationship; or

25 (B) Denying the claimant's kinship with the decedent and setting forth facts
26 establishing a reasonable possibility of the nonexistence of the relationship.

1 (b)(1) The superior court may in the exercise of its discretion grant the motion if it is
2 supported as required by paragraph (2) of subsection (a) of this Code section, except upon
3 a showing of good cause otherwise.

4 (2) Any order of the court granting such a motion shall provide that any such testing
5 shall be performed by a duly qualified licensed practicing physician, duly qualified
6 geneticist, or other duly qualified person; provided, however, that the superior court shall
7 determine the number and qualifications of the experts. Results of such testing shall be
8 made known to the personal representative and all parties in interest as soon as available.
9 The provisions of Code Section 53-2-3 shall apply in any case where the rights of
10 inheritance of a child born out of wedlock are at issue.

11 (3) The costs of such testing and of disinterment and reinterment of the remains of the
12 decedent shall be borne by the movant."

13

SECTION 2.

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