

House Bill 130 (COMMITTEE SUBSTITUTE)

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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"53-2-27.

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

H. B. 130 (SUB)

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

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

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

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

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

SECTION 2.

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