

Senate Bill 135

By: Senators Kirkpatrick of the 32nd, Hatchett of the 50th, Kennedy of the 18th, Strickland of the 17th, Gooch of the 51st and others

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 align evidentiary medical and genetic testing
3 with the Uniform Parentage Act of 2017; to provide for related matters; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 3 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to
8 determination of paternity, is amended by revising Code Section 19-7-45, relating to genetic
9 tests, as follows:

10 "19-7-45.

11 (a) All orders requiring parties to submit to genetic ~~tests~~ testing shall be issued in
12 conformance with Code Sections 19-7-43, 19-7-46, and 19-7-54. In all cases ~~such tests~~
13 genetic testing shall be of a type reasonably relied upon by experts in the field of genetic
14 testing and shall be conducted ~~by a laboratory certified by the American Association of~~
15 ~~Blood Banks and shall be conducted so that the results meet the standards the American~~
16 ~~Association of Blood Banks requires in order for such results to be admitted as evidence~~
17 ~~in a court of law~~ by a laboratory accredited by:

(1) The AABB, formerly known as the American Association of Blood Banks, or a successor to its functions; or

(2) An accrediting body designated by the Secretary of the United States Department of Health and Human Services.

(b) When an action to determine paternity is initiated prior to the birth of a child, the court shall order that the genetic ~~tests~~ testing be ~~made~~ conducted as soon as medically feasible after the birth.

(c) Genetic ~~tests~~ testing shall be performed by a duly qualified licensed practicing physician, duly qualified immunologist, or other qualified person. In all cases, however, the court shall determine the number and qualifications of the experts. In all cases the results shall be made known to all parties at interest as soon as available.

(d) An order issued under this Code section is enforceable by contempt, provided that, if the petitioner refuses to submit to an order for a genetic ~~test~~ testing, the court may dismiss the action upon motion of the respondent.

(e)(1) The Department of Human Services and any court issuing an order with respect to a determination of paternity shall not, insofar as possible, attach the written results from a genetic ~~test~~ testing to any pleading or court order.

(2) The genetic material collected for a genetic ~~test~~ testing shall be destroyed within a reasonable time, as set forth by rule of the Department of Human Services.

(3) The genetic material collected for a genetic ~~test~~ testing shall not be shared with any other person or entity."

SECTION 2.

Said article is further amended by revising Code Section 19-7-46, relating to evidence at trial, as follows:

"19-7-46.

(a) The results of medical ~~tests~~ and genetic testing and comparisons ordered by the court, including the statistical likelihood of the alleged parent's parentage, if available, ~~unless a party to the paternity genetic test objects in writing at least 30 days prior to a hearing at which the results of the testing may be introduced into evidence~~ shall be admitted in evidence without the need for foundation testimony or other proof of authenticity or accuracy unless a party to the paternity genetic test objects in writing at least 30 days prior to a hearing at which the results of the testing may be introduced into evidence. When an objection is filed at least 30 days prior to a hearing at which the results may be introduced into evidence, the results of medical ~~tests~~ and genetic testing and comparisons ordered by the court including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person.

(b) A report of genetic testing ordered by the court in a record and signed under penalty of perjury by a designee of the testing laboratory is self-authenticating and shall be admissible into evidence in any civil action if documentation from a testing laboratory contains:

(1) The name and photograph of each individual whose specimen has been taken;

(2) The name of the individual who collected each specimen;

(3) The place and date each specimen was collected;

(4) The name of the individual who received such specimen in the testing laboratory; and

(5) The date the specimen was received.

~~(b)~~(c) There shall exist a rebuttable presumption of paternity of a child born out of wedlock if there has been performed scientifically credible parentage-determination genetic testing which establishes at least a 97 percent probability of paternity. The rebuttable presumption of paternity can be overcome by the presentation of clear and convincing evidence as determined by the trier of fact. Parentage-determination testing shall include,

but not necessarily be limited to, red cell antigen, human leucocyte antigen (HLA), red cell enzyme, and serum protein electrophoresis tests or testing by deoxyribonucleic acid (DNA) probes.

~~(c)~~(d) Evidence of a refusal to submit to a genetic test or other ordered medical or anthropological test is admissible to show that the alleged father is not precluded from being the father of the child.

~~(d)~~(e) An expert's opinion concerning the time of conception is as admissible as is other expert testimony.

~~(e)~~(f) Testimony relating to sexual access to the mother by any person on or about the probable time of conception of the child is admissible in evidence.

~~(f)~~(g) Other relevant evidence shall be admitted as is appropriate."

SECTION 3.

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