

By Senator Dawson

30-869-02

1                                   A bill to be entitled  
 2           An act relating to paternity; amending s.  
 3           742.011, F.S.; requiring that determination of  
 4           paternity proceedings be electronically  
 5           recorded; creating s. 742.125, F.S.;  
 6           authorizing a new trial with respect to a  
 7           determination of paternity under certain  
 8           circumstances; providing conditions for the  
 9           granting of relief with respect to a motion for  
 10          a new trial; providing for genetic testing;  
 11          providing for the payment of fees; providing  
 12          for costs; providing an effective date.

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 14 Be It Enacted by the Legislature of the State of Florida:

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 16           Section 1. Section 742.011, Florida Statutes, is  
 17 amended to read:

18           742.011 Determination of paternity proceedings;  
 19 jurisdiction; recording.--Any woman who is pregnant or has a  
 20 child, any man who has reason to believe that he is the father  
 21 of a child, or any child may bring proceedings in the circuit  
 22 court, in chancery, to determine the paternity of the child  
 23 when paternity has not been established by law or otherwise.  
 24 Such proceedings for the determination of paternity shall be  
 25 recorded electronically.

26           Section 2. Section 742.125, Florida Statutes, is  
 27 created to read:

28           742.125 New trial for determination of paternity  
 29 permitted; procedure.--

30           (1) Any other provision of law to the contrary  
 31 notwithstanding, in any action in which a person is required

1 to pay child support as the father of a child, an  
2 extraordinary motion for a new trial may be made at any time  
3 regarding the paternity of such child. Any such motion must  
4 include:

5 (a) An affidavit executed by the movant that the newly  
6 discovered evidence has come to the movant's knowledge since  
7 the entry of judgment; and

8 (b) The results from scientifically credible genetic  
9 testing showing a probability of paternity, as authorized  
10 under s. 742.12 and administered within 90 days prior to the  
11 filing of such motion, which finds that there is a 0 percent  
12 probability that the person ordered to pay such child support  
13 is the father of the child for whom support is required.

14 (2) The court shall grant relief on a motion filed in  
15 accordance with subsection (1) if all of the following apply:

16 (a) The court finds that the genetic test required in  
17 subsection (1) was properly conducted;

18 (b) The person ordered to pay child support has not  
19 adopted the child; and

20 (c) The child was not conceived by artificial  
21 insemination while the person ordered to pay child support and  
22 the child's mother were in wedlock.

23 (3) The court may not deny relief on a motion filed in  
24 accordance with subsection (1) solely because of the  
25 occurrence of any of the following acts if the person ordered  
26 to pay child support did not know at the time of the  
27 occurrence of the act that he was not the natural father of  
28 the child:

29 (a) The person ordered to pay child support married  
30 the mother of the child;

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1           (b) The person ordered to pay child support  
2 acknowledged his paternity of the child in a sworn statement;

3           (c) The person ordered to pay child support was named  
4 as the child's natural father on the child's birth certificate  
5 with the consent of the person ordered to pay child support;

6           (d) The person ordered to pay child support was  
7 required to support the child because of a written voluntary  
8 promise or by a court order or an administrative support  
9 order;

10          (e) The person ordered to pay child support signed a  
11 voluntary acknowledgement of paternity;

12          (f) The person ordered to pay child support was  
13 determined to be the child's natural father; or

14          (g) The person ordered to pay child support  
15 acknowledged himself to be the child's natural father.

16          (4)(a) In any action brought pursuant to this section,  
17 if the genetic test results submitted in accordance with  
18 subsection (1) are solely provided by the person ordered to  
19 pay child support, the court on its own motion may, and on the  
20 motion of any party shall, order the child's mother, the  
21 child, and the person ordered to pay child support to submit  
22 to genetic tests. The clerk of the court shall schedule such  
23 genetic testing not later than 30 days after the court issues  
24 its order.

25          (b) If the mother of the child or the person ordered  
26 to pay child support willfully fails to submit to genetic  
27 testing, or if either such party is the custodian of the child  
28 and willfully fails to submit the child for testing, the court  
29 shall issue an order determining the relief on the motion  
30 against the party failing to submit to genetic testing. If a  
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1 party shows good cause for failing to submit to genetic  
2 testing, such failure is not willful.

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

11 (5) If relief on a motion filed in accordance with  
12 this section is not granted, the court shall assess the costs  
13 of the action and attorney's fees against the movant.

14 Section 3. This act shall take effect upon being a  
15 law.

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18 LEGISLATIVE SUMMARY

19 Requires that determination of paternity proceedings be  
20 electronically recorded. Provides that in any action in  
21 which a person is required to pay child support as the  
22 father of the child, an extraordinary motion for a new  
23 trial may be made at any time regarding the paternity of  
24 the child under certain circumstances. (See bill for  
25 details.)  
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