

By Representative Brutus

1 A bill to be entitled
 2 An act relating to paternity; creating s.
 3 382.0136, F.S.; requiring DNA testing at birth
 4 and maintenance of such records by the
 5 Department of Health; providing for analysis by
 6 court order; amending s. 742.011, F.S.;
 7 requiring that determination of paternity
 8 proceedings be electronically recorded;
 9 creating s. 742.125, F.S.; authorizing a new
 10 trial with respect to a determination of
 11 paternity under certain circumstances;
 12 providing conditions for the granting of relief
 13 with respect to a motion for a new trial;
 14 providing for genetic testing; providing for
 15 the payment of fees; providing for costs;
 16 providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 382.0136, Florida Statutes, is
 21 created to read:

22 382.0136 DNA testing at birth required; analysis by
 23 court order.--

24 (1) In addition to the certificate for each live birth
 25 required pursuant to s. 382.013, the department shall collect
 26 and maintain a DNA sample of each live birth of every infant
 27 born in the state. The department shall provide, by rule, for
 28 the collection and maintenance of such DNA samples.

29 (2) Any analysis of a DNA sample maintained by the
 30 department shall be by court order only.

31

1 Section 2. Section 742.011, Florida Statutes, is
2 amended to read:

3 742.011 Determination of paternity proceedings;
4 jurisdiction; recording.--Any woman who is pregnant or has a
5 child, any man who has reason to believe that he is the father
6 of a child, or any child may bring proceedings in the circuit
7 court, in chancery, to determine the paternity of the child
8 when paternity has not been established by law or otherwise.
9 Such proceedings for the determination of paternity shall be
10 recorded electronically.

11 Section 3. Section 742.125, Florida Statutes, is
12 created to read:

13 742.125 New trial for determination of paternity
14 permitted; procedure.--

15 (1) Any other provision of law to the contrary
16 notwithstanding, in any action in which a person is required
17 to pay child support as the father of a child, an
18 extraordinary motion for a new trial may be made at any time
19 regarding the paternity of such child. Any such motion shall
20 include:

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

24 (b) The results from scientifically credible genetic
25 testing showing a probability of paternity, as authorized
26 under s. 742.12 and administered within 90 days prior to the
27 filing of such motion, that finds that there is a 0 percent
28 probability that the person ordered to pay such child support
29 is the father of the child for whom support is so required.

30
31

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

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

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

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

11 (3) The court shall not deny relief on a motion filed
12 in accordance with subsection (1) solely because of the
13 occurrence of any of the following acts if the person ordered
14 to pay child support did not know at the time of the
15 occurrence of the act that he was not the natural father of
16 the child:

17 (a) The person ordered to pay child support married
18 the mother of the child;

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

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

24 (d) The person ordered to pay child support was
25 required to support the child because of a written voluntary
26 promise or by a court order or an administrative support
27 order;

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

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

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

3 (4)(a) In any action brought pursuant to this section,
4 if the genetic test results submitted in accordance with
5 subsection (1) are solely provided by the person ordered to
6 pay child support, the court on its own motion may, and on the
7 motion of any party shall, order the child's mother, the
8 child, and the person ordered to pay child support to submit
9 to genetic tests. The clerk of the court shall schedule such
10 genetic testing not later than 30 days after the court issues
11 its order.

12 (b) If the mother of the child or the person ordered
13 to pay child support willfully fails to submit to genetic
14 testing, or if either such party is the custodian of the child
15 and willfully fails to submit the child for testing, the court
16 shall issue an order determining the relief on the motion
17 against the party so failing to submit to genetic testing. If
18 a party shows good cause for failing to submit to genetic
19 testing, such failure shall not be considered willful.

20 (c) The party requesting genetic testing shall pay any
21 fees charged for the tests. If the custodian of the child is
22 represented by an administrative agency in its role as an
23 agency providing enforcement of child support orders, such
24 agency shall pay the cost of genetic testing if it requests
25 the test and may seek reimbursement for the fees from the
26 person against whom the court assesses the costs of the
27 action.

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

31

1 Section 4. This act shall take effect upon being a
 2 law.

3
 4 *****

5 HOUSE SUMMARY

6 Requires DNA testing of all live births and the
 7 maintenance of such records by the Department of Health.
 8 Provides that analysis of such DNA records shall be by
 9 court order only. Requires that determination of
 10 paternity proceedings be electronically recorded.
 11 Provides that in any action in which a person is required
 to pay child support as the father of the child, an
 extraordinary motion for a new trial may be made at any
 time regarding the paternity of the child under certain
 circumstances. See bill for details.

12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31