

ASSEMBLY, No. 2689

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JULY 13, 2000

Sponsored by:

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

SYNOPSIS

Provides that DNA test results may be used in establishing parentage.

CURRENT VERSION OF TEXT

As introduced.



A2689 QUIGLEY, FELICE

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1 AN ACT concerning genetic testing and amending P.L.1983, c.17.

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3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

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6 1. Section 11 of P.L.1983, c.17 (C.9:17-48) is amended to read as
7 follows:

8 11. a. As soon as practicable after an action to declare the
9 existence or nonexistence of the father and child relationship has been
10 brought, a consent conference shall be held by the Superior Court,
11 Chancery Division, Family Part intake service, the Probation Division
12 or the county welfare agency. At the request of either party, the
13 determination of paternity may be referred directly to the court in lieu
14 of the consent process. A court appearance shall be scheduled in the
15 event that a consent agreement cannot be reached.

16 b. On the basis of the information produced at the conference, an
17 appropriate recommendation for settlement shall be made to the
18 parties, which may include any of the following:

19 (1) That the action be dismissed with or without prejudice; or

20 (2) That the alleged father voluntarily acknowledge his paternity
21 of the child.

22 c. If the parties accept a recommendation made in accordance with
23 subsection b. of this section, which has been approved by the court,
24 judgment shall be entered or a Certificate of Parentage shall be
25 executed accordingly.

26 d. If a party refuses to accept a recommendation made under
27 subsection b. of this section or the consent conference is terminated
28 because it is unlikely that all parties would accept a recommendation
29 pursuant to subsection b. of this section, and blood tests or genetic
30 tests have not been taken, the county welfare agency shall require or
31 the court shall order the child and the parties to submit to blood tests
32 or genetic tests unless a party claims, and the county welfare agency
33 or the court finds, good cause for not ordering the tests. The court
34 may hear and decide motions to challenge a directive issued by the
35 county welfare agency requiring a party to submit to blood or genetic
36 tests. A genetic test shall be ordered upon the request of either party,
37 if the request is supported by a sworn statement by the requesting
38 party which alleges paternity and sets forth the facts establishing a
39 reasonable possibility of the requisite sexual contact between the
40 parties or denies paternity and sets forth the facts establishing a
41 reasonable possibility of the nonexistence of sexual contact between
42 the parties. If a party refuses to acknowledge paternity based upon the
43 blood or genetic test results, the action shall be set for a hearing.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 If the results of the blood test or genetic test indicate that the
2 specific threshold probability, as set by subsection i. of this section to
3 establish paternity has been met or exceeded, the results shall be
4 received in evidence as a rebuttable presumption of paternity without
5 requiring any additional foundation testimony or proof of authenticity
6 or accuracy of the paternity testing or results. In actions based on
7 allegations of fraud or inaccurate analysis, the court or the county
8 welfare agency shall require that additional blood or genetic tests be
9 scheduled within 10 days of the request and be performed by qualified
10 experts. Additional blood or genetic tests shall be paid for in advance
11 by the requesting party.

12 If a party objects to the results of the blood or genetic tests, the
13 party shall make the objection to the appropriate agency, in writing,
14 within 10 days of the consent conference or hearing.

15 e. The guardian ad litem may accept or refuse to accept a
16 recommendation under this section.

17 f. (Deleted by amendment, P.L.1994, c.164).

18 g. No evidence, testimony or other disclosure from the consent
19 conference shall be admitted as evidence in a civil action except by
20 consent of the parties. However, blood tests or genetic tests ordered
21 pursuant to subsection d. of this section shall be admitted as evidence.

22 h. The refusal to submit to a blood test or genetic test required
23 pursuant to subsection d. of this section, or both, shall be admitted
24 into evidence and shall give rise to the presumption that the results of
25 the test would have been unfavorable to the interests of the party who
26 refused to submit to the test. Refusal to submit to a blood test or
27 genetic test, or both, is also subject to the contempt power of the
28 court.

29 i. Blood test or genetic test results indicating a 95% or greater
30 probability that the alleged father is the father of the child shall create
31 a presumption of paternity which may be rebutted only by clear and
32 convincing evidence that the results of the test are not reliable in that
33 particular case.

34 j. If a party refuses to acknowledge paternity or does not appear
35 at a consent conference conducted by the county welfare agency, the
36 county welfare agency shall refer the matter to the court for
37 adjudication. For purposes of establishing paternity, the blood or
38 genetic test results shall be admitted into evidence at the hearing
39 without the need for foundation testimony or other proof of
40 authenticity or accuracy, unless an objection is made.

41 k. As used in this section, "blood or genetic test" can include DNA
42 tests.

43 (cf: P.L.1998, c.1, s.40)

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45 2. This act shall take effect immediately.

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STATEMENT

In M.A. v. Estate of A.C. 274 N.J.Super. 245 (Ch. 1993), the New Jersey Superior Court held that DNA blood test results were admissible in evidence in an action to establish parentage. This bill amends N.J.S.A. 9:17-48, concerning the use of blood or genetic testing as evidence in establishing the father child relationship to expressly provide that the blood or genetic testing which may be ordered pursuant to this section can include DNA test results.