
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 108 Session of
2003

INTRODUCED BY O'PAKE, LAVALLE, WOZNIAK, TARTAGLIONE, DENT,
KITCHEN, STOUT, BOSCOLA, ERICKSON, RAFFERTY AND MUSTO,
FEBRUARY 3, 2003

REFERRED TO JUDICIARY, FEBRUARY 3, 2003

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for determination of
3 paternity.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5104 heading, (a), (b), (c), (d) and (g)
7 of Title 23 of the Pennsylvania Consolidated Statutes are
8 amended to read:

9 § 5104. [Blood tests] Tests to determine paternity.

10 (a) [Short title of section.--This section shall be known
11 and may be cited as the Uniform Act on Blood Tests to Determine
12 Paternity.] Method of testing.--Testing under this section shall
13 consist of blood testing, deoxyribonucleic acid (DNA) testing or
14 both.

15 (b) Scope of section.--

16 (1) Civil matters.--This section shall apply to all
17 civil matters.

18 (2) Criminal proceedings.--This section shall apply to

1 all criminal proceedings subject to the following limitations
2 and provisions:

3 (i) An order for the tests shall be made only upon
4 application of a party or on the initiative of the court.

5 (ii) The compensation of the experts shall be paid
6 by the party requesting the [blood] test or by the
7 county, as the court shall direct.

8 (iii) The court may direct a verdict of acquittal
9 upon the conclusions of all the experts under subsection
10 (f). Otherwise, the case shall be submitted for
11 determination upon all the evidence.

12 (iv) The refusal of a defendant to submit to the
13 tests may not be used in evidence against the defendant.

14 (c) Authority for test.--In any matter subject to this
15 section in which paternity, parentage or identity of a child is
16 a relevant fact, the court, upon its own initiative or upon
17 suggestion made by or on behalf of any person whose blood or DNA
18 is involved, may or, upon motion of any party to the action made
19 at a time so as not to delay the proceedings unduly, shall order
20 the mother, child and alleged father to submit to blood tests,
21 DNA tests or both. If any party refuses to submit to the tests,
22 the court may resolve the question of paternity, parentage or
23 identity of a child against the party or enforce its order if
24 the rights of others and the interests of justice so require.

25 (d) Selection of experts.--The tests shall be made by
26 experts qualified as examiners of blood types or DNA
27 identification, who shall be appointed by the court. The experts
28 shall be called by the court as witnesses to testify to their
29 findings and shall be subject to cross-examination by the
30 parties. Any party or person at whose suggestion the tests have

1 been ordered may demand that other experts qualified as
2 examiners of blood types or DNA identification perform
3 independent tests under order of court, the results of which may
4 be offered in evidence. The number and qualifications of experts
5 shall be determined by the court.

6 * * *

7 (g) Effect on presumption of [legitimacy] paternity.--The
8 presumption of [legitimacy] paternity of a child born during
9 wedlock as heretofore recognized in this Commonwealth is
10 reaffirmed and made subject to the following provisions:

11 (1) Upon petition for testing in an action in which
12 paternity of the child is an issue filed not later than five
13 years after the child's birth, the court shall permit testing
14 to rebut the presumption of paternity provided that the
15 overall interests of justice, including the best interests of
16 the child, would not be unreasonably harmed and:

17 (i) the parties subject to the presumption are
18 divorced or irreconcilably separated, and one or both
19 assert reasonable grounds to believe that application of
20 the presumption is likely to result in an incorrect
21 paternity determination; or

22 (ii) the parties subject to the presumption mutually
23 agree to submit to and be bound by the testing.

24 (2) The presumption of paternity is overcome if the
25 court finds that the conclusions of all the experts as
26 disclosed by the evidence based upon the tests show that the
27 husband is not the father of the child.

28 Section 2. This act shall take effect in 60 days.