

SENATE BILL REPORT

SB 5997

As Reported by Senate Committee On:
Law & Justice, February 3, 2014

Title: An act relating to authorizing the termination of all legal responsibilities of a nonparent if genetic testing shows by clear and convincing evidence that a man is not the genetic father of a child.

Brief Description: Authorizing the termination of all legal responsibilities of a nonparent if genetic testing shows by clear and convincing evidence that a man is not the genetic father of a child.

Sponsors: Senator Angel.

Brief History:

Committee Activity: Law & Justice: 1/20/14, 2/03/14 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Kline, Ranking Member; Darneille and Pedersen.

Staff: Tim Ford (786-7423)

Background: Washington's Uniform Parentage Act (UPA) provides for how a legal parent-child relationship may be established or challenged, and how a determination of parentage may be used by courts in other proceedings including child support.

Parentage between a person and a child may be established under UPA based on the following:

- an un rebutted presumption;
- acknowledgement of paternity;
- adoption;
- a valid surrogate contract;
- consent to assisted reproduction; or
- an adjudication.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person is a presumed parent if the child was born in or shortly after the context of marriage. A person is an acknowledged parent if the person signs an acknowledgement of paternity that is later filed with the State Registrar of Vital Statistics. A person is an adjudicated parent if the person's parentage was determined in a court proceeding.

Under UPA, the procedure for challenging parentage varies depending on whether the child has a presumed, acknowledged, or adjudicated parent. Generally, a challenge must be brought within four years after the child's birth or within four years after an acknowledgment or adjudication of parentage.

In a proceeding to challenge parentage, genetic testing may be ordered or alternately denied by the court where it is not in the best interest of the child. In most cases, genetic testing by an expert is admissible in court. A man excluded as the father by genetic testing must be adjudicated not to be the father of the child, except when the man adopted the child or the man consented to assisted reproduction with the intent to be a parent.

Summary of Bill: A man may file a petition in court to rescind an acknowledgment of paternity, challenge a presumption of paternity, or contest an adjudication of paternity if genetic testing shows by clear and convincing evidence that the man is not the genetic father of the child. If successful in the court action challenging paternity, the man may file a denial of paternity with the State Registrar of Vital Statistics, and must then be discharged from all of the rights and duties of a parent, including any obligation to pay child support under any court order or administrative finding. The right to challenge paternity does not apply if the man is the adoptive father or if the man consented to assisted reproduction with the intent to be a parent.

A petition must be filed within two years after knowledge of facts indicating the man is not the child's genetic father, or for children born before this act, within two years of the effective date of this act. A court may no longer deny a motion for genetic testing on the basis that testing is inequitable and not in the best interest of the child. Genetic testing is presumed to be in the best interest of the child. A court may not deny testing if the petitioner and presumed father did not know he was not the genetic father, regardless of whether the presumed father cohabited or engaged in sexual intercourse with the person who has a parent-child relationship with the child during the probable time of conception, held out the child as his own, or provided financial support for the child.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a matter of fairness and equity. In many cases there is no legal recourse for a man when he discovers through DNA testing that he is not the biological father but is paying child support. The discovery may happen long

after the limitations allowed by law. Paying child support for someone else's child is very burdensome and affects the ability to support your own biological children. Failure to pay a legal obligation such as child support may result in a driver license suspension or arrest.

CON: This bill could be devastating to the child if left without child support. A person already has up to four years to challenge paternity. This period is longer than most states. We should keep a child-centered approach. Parentage does not require a person to be the biological father.

Persons Testifying: PRO: Senator Angel, prime sponsor; Brandon Jones, Naomi Evans, Andrew Evans, Shawn West, citizens.

CON: Rick Bartholomew, Family Law Section of the WA State Bar Assn.; David Ward, Legal Voice.