

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Mahony**

A BILL ACT 986 OF 1991
HOUSE BILL 1256

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 9, CHAPTER 10, SUBCHAPTER 1 OF THE
9 ARKANSAS CODE OF 1989 TO CLARIFY PATERNITY TESTING
10 REQUIREMENTS; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. Arkansas Code §9-10-108 is hereby amended to read as
15 follows:

16 "9-10-108. Paternity test.

17 (a) Upon motion of either party in a paternity action, the trial court
18 shall order that the putative father, mother, and child submit to blood tests
19 or other scientific examinations or tests, which may include deoxyribonucleic
20 acid (DNA) typing, to determine whether or not the defendant can be excluded
21 as being the father of the child and to establish the probability of paternity
22 if the testing does not exclude the defendant.

23 (b) The tests shall be made by a duly qualified expert or experts to be
24 appointed by the court.

25 (c) (1) A written report of the test results prepared by the duly
26 qualified expert conducting the test, or by a duly qualified expert under
27 whose supervision or direction the test and analysis have been performed,
28 certified by an affidavit duly subscribed and sworn to by him or her before a
29 notary public, may be introduced in evidence in paternity actions without
30 calling the expert as a witness unless a motion challenging the test
31 procedures or results has been filed within thirty (30) days of the trial on
32 the complaint and bond posted in an amount sufficient to cover the costs of
33 the duly qualified expert to appear and testify.

34 (2) If contested, documentation of the chain of custody of
35 tissues/blood samples taken from tests subjects in paternity testing shall be
36 verified by affidavit of one (1) person witnessing the extraction, packaging

1 and mailing of said samples and by one (1) person signing for said samples at
2 the place where same are subject to the testing procedure. Submission of the
3 affidavits along with the submission of the test results shall be competent
4 evidence to establish the chain of custody of these tissue specimens.

5 (d) If the results of the paternity tests establish a ninety-five
6 percent (95%) or more probability of inclusion that the defendant is the
7 biological father of the child and after corroborating testimony of the mother
8 in regard to access during the probable period of conception, such shall
9 constitute a prima facie case of establishment of paternity and the burden of
10 proof shall shift to the defendant to rebut such proof.

11 (e) Whenever the court orders the blood tests to be taken and one (1)
12 of the parties refuses to submit to the test, that fact shall be disclosed
13 upon the trial and may be considered civil contempt of court.

14 (f) The costs of the test and witness fees shall be taxed by the court
15 as other costs in the case.

16 (g) Whenever it shall be relevant to the prosecution or the defense in
17 a paternity action, blood tests which exclude third parties as the father of
18 the child may be introduced under the same requirements as set out in
19 subsections (a)-(e) of this section."
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21 SECTION 2. All provisions of this act of a general and permanent nature
22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
23 Revision Commission shall incorporate the same in the Code.
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25 SECTION 3. If any provision of this act or the application thereof to
26 any person or circumstance is held invalid, such invalidity shall not affect
27 other provisions or applications of the act which can be given effect without
28 the invalid provision or application, and to this end the provisions of this
29 act are declared to be severable.
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31 SECTION 4. All laws and parts of laws in conflict with this act are
32 hereby repealed.
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34 SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the
35 Seventy-Eighth General Assembly that it is in the best interest of the people

1 of the State of Arkansas that paternity of the children be established in the
2 most expedient manner for all children of this state; and the smooth
3 transition from current requirements of those of this act require the
4 provisions to become effective immediately upon passage. Therefore, an
5 emergency is hereby declared to exist and this act being necessary for the
6 immediate preservation of the public peace, health and safety shall be in full
7 force and effect from and after its passage and approval.

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APPROVED: 4/8/91