

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Rep. Mahony

HOUSE BILL 1116

"AN ACT TO AMEND SECTIONS 1 AND 2 OF ACT 127 OF 1955, AS AMENDED, [ARK. STAT. 34-705.1 AND 34-705.2] TO PERMIT QUALIFIED EXPERTS TO CERTIFY PATERNITY TEST RESULTS TO THE COURT, TO ESTABLISH A REBUTTABLE PRESUMPTION OF PATERNITY IN BASTARDY CASES; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 1 of Act 127 of 1955, as amended, the same being Arkansas Statute 34-705.1, is hereby amended to read as follows:

"Section 1. (a) Whenever it shall be relevant to the prosecution or the defense in an illegitimacy action, the trial court may direct that the defendant, complainant and child submit to one (1) or more paternity tests or other scientific examinations or tests, to determine whether or not the defendant can be excluded as being the father of the child, and to establish the probability of paternity if the test does not exclude the defendant.

(b) The tests shall be made by a duly qualified physician or physicians or by another duly qualified person, or persons employed by a medical laboratory which conducts such tests.

(c) The results of the tests shall be receivable in evidence. Such experts may be subject to cross-examination by both parties as set forth in Section 2 of this Act after the court has caused them to disclose their findings.

(d) The costs of the test shall be taxed as other costs in the case or, in the court's discretion, may be taxed against the county.

(e) Whenever the court orders such blood tests to be taken and one (1) of the parties shall refuse to submit to such test, such fact shall be disclosed upon the trial unless good cause is shown to the contrary."

SECTION 2. Section 2 of Act 127 of 1955, as amended, the same being Arkansas Statute 34-705.2, is hereby amended to read as follows:

"Section 2. (a) A written report of the test results by the duly qualified expert or experts performing the paternity test certified by an affidavit duly subscribed and sworn to by him or them before a notary public, may be introduced in evidence in illegitimacy actions without calling such person(s) as a witness and without establishing the chain of custody of the samples tested. If either party shall desire to question an expert in the case from the laboratory which has performed the paternity tests or those persons involved in the chain of custody, the names and addresses of such persons shall be disclosed to the party and the party shall have such person(s) subpoenaed within a reasonable time prior to trial.

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

(c) Actions brought in the State of Arkansas to establish paternity may be brought at any time."

SECTION 3. All laws and parts of laws in conflict withy this Act are hereby repealed.

