

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1258

By: Representative Mahony

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 9, CHAPTER 10, SUBCHAPTER 1, OF THE ARKANSAS CODE OF 1987 TO MEET NEW FEDERAL REQUIREMENTS IN THE ESTABLISHMENT OF PATERNITY; TO ESTABLISH A REBUTTABLE PRESUMPTION BASED ON SCIENTIFIC TESTING; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 9-10-102 is hereby amended to read as follows:

"9-10-102. Actions governed by rules of civil procedure - Venue - Summons.

(a) An action to establish the paternity of a child or children shall be commenced and proceed under the rules of civil procedure applicable in circuit and chancery court as amended from time to time by the Supreme Court or the General Assembly.

(b) Actions brought in the State of Arkansas to establish paternity may be brought at any time. Any action brought prior to August 1, 1985, but dismissed because of a statute of limitations in effect prior to that date, may be brought for any person for whom paternity has not yet been established.

(c) Venue of paternity actions shall be in the county in which the plaintiff resides.

(d) Summons may be issued in any county of this state in which the defendant may be found."

SECTION 2. Arkansas Code 9-10-108 is hereby amended to read as follows:

"9-10-108. Blood tests.

(a) At the request of either party in a paternity action, the trial court shall direct that the defendant, complainant, and child submit to one

(1) or more blood tests or other scientific examinations or tests, including deoxyribonucleic acid (DNA) typing, 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, not to exceed three (3), to be appointed by the court.

(c) (1) The results of the tests shall be receivable in evidence.

(2) (A) A written report of the test results by the duly qualified expert performing the test, or by a duly qualified expert under whose supervision and direction the test and analysis have been performed, certified by an affidavit duly subscribed and sworn to by him before a notary public, may be introduced in evidence in illegitimacy actions without calling the expert as a witness. If either party shall desire to question the expert the party shall have the expert 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.

(3) The experts shall be subject to cross-examination by both parties after the court has caused them to disclose their findings.

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

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

(f) Whenever it shall be relevant to the prosecution or the defense in a paternity action, blood tests which exclude third parties as the father of the child may be introduced under the same requirements as set out in subsections (a) - (e)."

SECTION 3. All provisions of this act of a general and permanent nature

are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.