

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 86
Committee Substitute Favorable 3/16/95
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Short Title: Social Services Paternity ID.

(Public)

Sponsors:

Referred to:

February 1, 1995

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE IDENTIFICATION OF THE NONSUPPORTING PARENT OF ANY CHILD RECEIVING PUBLIC ASSISTANCE, TO REQUIRE THE MOTHER TO IDENTIFY THE PERSON REASONABLY BELIEVED TO BE THE FATHER, TO REQUIRE THE STATE REGISTRAR TO PROVIDE PATERNITY AFFIDAVITS TO THE CHILD SUPPORT ENFORCEMENT SECTION OF THE DIVISION OF SOCIAL SERVICES, AND TO REQUIRE THE DIVISION OF SOCIAL SERVICES TO STUDY CLAIMS OF GOOD CAUSE FOR REFUSING TO ESTABLISH PATERNITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-131 reads as rewritten:

"§ 110-131. **Compelling disclosure of information respecting the nonsupporting responsible parent of a child receiving public ~~assistance.~~ assistance; compelling identification of the nonsupporting responsible parent.**

(a) If a parent of any dependent child receiving public assistance fails or refuses to cooperate fully with the county or the child support enforcement agency serving the county in identifying, locating and securing support from a nonsupporting responsible parent, ~~this~~ the parent may be cited to appear before any judge of the district court and

1 compelled to disclose such information under oath and/or may be declared ineligible for
2 public assistance by the county department of social services for as long as ~~he~~the parent
3 fails to cooperate.

4 A parent of any dependent child receiving public assistance may have good cause for
5 not cooperating fully in identifying, locating, and securing support from the
6 nonsupporting parent, if the county or the child enforcement agency serving the county
7 determines that (i) the child was born as a result of rape or incest or (ii) efforts to secure
8 support would result in physical or emotional danger to the parent or child.

9 A mother of any dependent child receiving public assistance shall provide the identity
10 of the person she reasonably believes to be the father of the child. If the mother identifies
11 more than one person that she reasonably believes may be the father of the child, the
12 county or the child support enforcement agency serving the county shall provide financial
13 assistance for no more than three sets of paternity establishment tests. The costs for any
14 additional paternity establishment tests shall be assessed initially to the mother, and shall
15 be reimbursed by the father once paternity and support is established.

16 A caretaker of any dependent child receiving public assistance shall cooperate with
17 the county or the child support enforcement agency serving the county by providing, to
18 the extent that it is known to the caretaker, information that would assist in locating and
19 securing support from a nonsupporting responsible parent or identifying a nonsupporting
20 responsible parent of the dependent child. For the purposes of this section, 'caretaker'
21 means any person, other than a parent, who has responsibility for the health and welfare
22 of a dependent child receiving public assistance.

23 (b) Any parent who, having been cited to appear before a judge of the district court
24 pursuant to subsection (a), fails or refuses to appear or fails or refuses to provide the
25 identity and other information requested may be found to be in contempt of said court
26 and may be fined not more than one hundred dollars (\$100.00) or imprisoned not more
27 than six months or both.

28 (c) Any parent who is declared ineligible for public assistance by the county
29 department of social services shall have ~~his~~the parent's needs excluded from
30 consideration in determining the amount of the grant, and the needs of the remaining
31 family members shall be met in the form of a protective payment in accordance with ~~G.S.~~
32 ~~108-50.~~G.S. 108A-38.

33 (d) The county or the child support enforcement agency serving the county shall
34 make substantial effort to determine the identity of and locate and secure support from a
35 nonsupporting responsible parent through information made available from the State
36 Registrar pursuant to G.S. 130A-101(f)."

37 Sec. 2. G.S. 130A-101(f) reads as rewritten:

38 "(f) If the mother was unmarried at all times from date of conception through date
39 of birth, the name of the father shall not be entered on the certificate unless the child's
40 mother and father complete an affidavit acknowledging paternity which contains the
41 following:

- 42 (1) A sworn statement by the mother consenting to the assertion of paternity
43 by the father and declaring that the father is the child's natural father;

- 1 (2) A sworn statement by the father declaring that he believes he is the
2 natural father of the child;
- 3 (3) Information explaining in plain language the effect of signing the
4 affidavit, including a statement of parental rights and responsibilities
5 and an acknowledgment of the receipt of this information; and
- 6 (4) The verified social security numbers of both parents.

7 The State Registrar, in consultation with the Child Support Enforcement Section of the
8 Division of Social Services, shall develop and disseminate a form affidavit for use in
9 compliance with this section, together with an information sheet that contains all the
10 information required to be disclosed by subdivision (3) of this subsection.

11 Subject to any fee prescribed in G.S. 130A-93.1, the State Registrar, upon request,
12 shall provide to any county department of social services or the child support
13 enforcement agency serving any county a copy of the birth certificate, the verified social
14 security numbers of both parents, and a copy of the paternity affidavit for any birth
15 registered according to the provisions of this subsection.

16 Upon the execution of the affidavit, the declaring father shall be listed as the father on
17 the birth certificate and shall be presumed to be the natural father of the child. The
18 executed affidavit shall be filed with the registrar along with the birth certificate. A
19 certified copy of the affidavit shall be admissible in any action to establish paternity. The
20 presumption of paternity arising under this section may be rebutted in a legal action only
21 by clear, cogent, and convincing evidence. The surname of the child shall be determined
22 by the mother, except if the father's name is entered on the certificate, the mother and
23 father shall agree upon the child's surname. If there is no agreement, the child's surname
24 shall be the same as that of the mother.

25 The execution and filing of this affidavit with the registrar does not affect rights of
26 inheritance unless the affidavit is also filed with the clerk of court in accordance with
27 G.S. 29-19(b)(2)."

28 Sec. 3. The Division of Social Services in the Department of Human
29 Resources shall study methods for validating claims of good cause for refusing to
30 establish paternity, including the methods used in other states, the national average rate of
31 claims of good cause for refusing to establish paternity compared to the State rate of
32 claims of good cause for refusing to establish paternity, and the reasons for differences in
33 the rates and steps that may be taken to reduce these differences, if any. The Division
34 shall report its findings and recommendations to the Legislative Study Commission on
35 Welfare Reform on January 1, 1996.

36 Sec. 4. Section 1 of this act becomes effective October 1, 1995, and applies to
37 those persons who become eligible for or are receiving public assistance on or after that
38 date. The remainder of this act becomes effective upon ratification.