

paternity and the subsequent child support order. The volume of work involved in such overturned cases is unknown. However, LBO estimates costs associated with this provision will be minimal.

- Increased expenditures incurred to establish paternity earn federal reimbursement at a rate of 66 percent. Thus there is a minimal, but not offsetting, gain in federal reimbursement.

Detailed Fiscal Analysis

Provisions of the Bill. The bill provides that the court must relieve a party from a paternity determination or child support order if genetic test results submitted with the motion demonstrate that there is zero percent probability that the party or the male minor is the father of the child in question. The bill permits the court to issue an order canceling the arrearage and includes a provision explicitly stating that the bill's provisions should not be seen as limiting any actions that may be taken by the party relieved of the child support order to recover child support paid under the order.

The bill makes it a substantive right to be so relieved from a child support order, regardless of whether a person was married to the mother; has admitted paternity, or been named as the father of the child by voluntary written promise, court order, or birth certificate documentation; or was presumed or determined to be the natural father of the child in any circumstance or action under O.R.C. Chapter 3111.

A party is prohibited from obtaining relief from a child support order or paternity determination under the bill, in the following circumstances: if the party or male minor adopted the child; if the child was conceived as a result of artificial insemination; or if the party or male minor knew the child was not his child before being presumed to be the natural father or otherwise admitting or acknowledging himself to be the child's father.

The bill also permits the court to order the child's mother to submit genetic tests if the results on which the motion for relief is founded are based on samples from only the party or minor male and the child.

Number of Cases Affected. It is difficult to predict the number of challenges to child support orders that will occur under the bill, but LBO believes that fewer than 1,000 challenges, most of which will be successful because test results must accompany the motion, will occur annually.

LBO estimates that fewer than 1,000 challenges to paternity determinations and child support orders will occur annually under the bill, however precise records concerning genetic testing and paternity disestablishment in Ohio are lacking. This estimate is arrived at on the basis of information received from the Office of Child Support of the Ohio Department of Human Services (ODHS), its contract laboratories, and from the Iowa Department of Human Services' Bureau of Collections.

ODHS spends \$4 million annually on genetic testing in paternity cases, primarily involving mothers and/or children receiving state assistance, but including also a very small number of persons regardless of income. ODHS' Office of Child Support (OCS) contracts with four different private laboratories whose prices vary, but OCS estimates an average of \$165 per test-trio (mother, child, and putative father). Based on this average, the Department funds genetic testing in approximately 24,242 cases annually. OCS officials state that "well less than 5 percent" (1,212) of that total caseload involves paternity *dis*establishment; the vast majority involve initial determination of paternity. According to contracting laboratories, the exclusion rate (i.e., the percentage of tests that exclude the possibility that a person is the father of the child in question) for all genetic testing is approximately 32 percent. Applying this overall exclusion rate to the estimated number of paternity disestablishment motions (1,212 X .32 = 388) yields an approximation of roughly 400 cases with genetic test results sufficient to warrant a motion annually.

Experience in other states suggests even fewer successful challenges may result. Currently, Iowa and Alaska are the only states with statutory paternity disestablishment. The Iowa arrangement is more comparable to that proposed in the bill; specifically, Iowa law permits motions to disestablish paternity at any time during the child's minority if supported by genetic testing that finds there is less than a five percent chance of paternity. Under the Iowa law, child support arrearages are satisfied by the State and all court costs are borne by the movant. According to the Iowa Department of Human Services' Bureau of Collections, not more than 50 cases appear annually involving a successful challenge to a child support order. Given that the U.S. Census Bureau estimates the population of Iowa and of Ohio at 2.9 million and 11.2 million, respectively, as of July 1998, and assuming similar social patterns in both states, LBO extrapolates that Ohio may experience as few as 200 successful challenges under the bill.

Paternity Establishment and Support Collections. County child support enforcement agencies (CSEAs) will experience a minimal increase in expenditures necessary to re-establish paternity and obtain new child support orders as a result of those motions under the bill that are successful. The increased CSEA expenditures are somewhat offset by the 66 percent federal match that is provided for child support enforcement activities. In addition, LBO estimates a net negligible decrease in state funds as a result of some number of cases in which child support payments made on behalf of public assistance clients will no longer be collected; all child support payments collected on behalf of Temporary Assistance to Needy Families (TANF) clients are retained by the State.

Regarding the bill's permissive authority for a court to order the mother of the child that is the subject of the final judgment, order, or proceeding to submit to genetic testing, it is not clear who would be responsible for the costs of such testing; it is possible, however unlikely, that ODHS expenditures could experience a negligible increase associated with this provision in cases in which the mother and child are receiving public assistance.

Child Support Arrearages and Recovery Issues. The bill permits the court to issue an order canceling the arrearage and includes a provision explicitly stating that the bill's provisions should not be seen as limiting any actions that may be taken by the party relieved of the child support order to recover child support paid under the order. Counties may experience an increase in expenditures should relieved parties pursue civil action against the governmental entities responsible for issuing, establishing, and enforcing the judgement, order, or proceeding that required the party to pay child

support, including perhaps the county CSEAs. The magnitude and distribution of this potential increase in expenditures is dependent upon the likelihood and the potential for success of such legal action.

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