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Final Analysis
Legislative Service Commission

Sub. H.B. 136

126th General Assembly
(As Passed by the General Assembly)

Reps. Gilb, Hood, McGregor, Allen, Harwood, Aslanides, Barrett, Beatty, Blessing, Book, Brown, Bulp, Cassell, Chandler, Collier, Combs, DeGeeter, Domenick, C. Evans, D. Evans, Faber, Fende, Flowers, Garrison, Hagan, Healy, Hughes, Latta, Mason, Mitchell, Oelslager, Otterman, S. Patton, Perry, Raussen, Reidelbach, Schaffer, Schneider, Seaver, Seitz, G. Smith, D. Stewart, Wagoner, Webster, Wolpert, Yuko

Sens. Dann, Armbruster, Cates, Gardner, Harris, Zurz, Padgett, Niehaus, Spada, Clancy, Mumper, Goodman

Effective date: May 17, 2006

ACT SUMMARY

- Allows a parentage action to be filed directly with the juvenile court of the county in which the child is located in certain circumstances.
- Replaces a provision requiring a child support enforcement agency to be made a party to a parentage action in certain circumstances with a provision that requires the child support enforcement agency, in the county where a parentage action is filed, to always be notified of the action and be given an opportunity to be heard in the action.
- Allows interest to accrue on a child support arrearage after judgment is rendered to a date certain at a specified rate of interest.
- Allows the court to make a temporary order regarding the allocation of parental rights and responsibilities for the care of a child while an action pertaining to the allocation of parental rights and responsibilities is pending.
- Allows the court to take into consideration that the putative father is named on the birth record of the child, the child has the putative father's surname, or a clear pattern of a parent and child relationship between the putative father and the child exists when determining whether to award

parenting time, visitation rights, or temporary custody to a putative father.

- Provides that the CSEA may bring an action to determine the existence or nonexistence of a father and child relationship if the child's father or alleged father is a recipient of public assistance or of services under Title IV-D of the "Social Security Act."

CONTENT AND OPERATION

Allocation of parental rights and responsibilities

Under the act, in any proceeding pertaining to the allocation of parental rights and responsibilities for the care of a child, when requested in the complaint, answer, or counterclaim, or by a motion served with the pleading, upon satisfactory proof by affidavit duly filed with the clerk of the court, the court, without oral hearing and for good cause shown, may make a temporary order regarding the allocation of parental rights and responsibilities for the care of the child while the action is pending. If a parent and child relationship has not already been established, the court may take into consideration when determining whether to award parenting time, visitation rights, or temporary custody to a putative father that the putative father is named on the birth record of the child, the child has the putative father's surname, or a clear pattern of a parent and child relationship between the child and the putative father exists. (R.C. 3109.043.)

Action to determine the existence or nonexistence of a father and child relationship

Continuing law provides that an action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency (CSEA) of the county in which the child resides if the child's mother is a recipient of public assistance or of services under Title IV-D of the "Social Security Act," or the alleged father's personal representative. The act additionally allows the CSEA to bring an action of that nature if the child's *father or alleged father* is a recipient of public assistance or of services under Title IV-D of the "Social Security Act." (R.C. 3111.04(A).)

Determination of paternity

Continuing law requires a person seeking to determine the parentage of a child to file a request for a CSEA administrative parentage determination *prior* to

filing a parentage action with the juvenile court (R.C. 3111.38 (not in the act) and 3111.381). The act adds two exceptions to this general rule. In the following circumstances, the appropriate division of the court of common pleas may determine the parentage of a child without an administrative determination from the CSEA:

(1) A child's mother may go directly to the court in the county in which the child resides to determine parentage in order to request an order to determine the allocation of parental rights and responsibilities,¹ the payment of all or any part of the reasonable expenses of the mother's pregnancy and hospitalization, or child support of the child.

(2) The putative father may go directly to the court in the county in which the child resides to determine parentage in order to request an order to determine the allocation of parental rights and responsibilities.

In either case, the clerk of the court must forward a copy of the complaint to the CSEA of the county in which the complaint is filed. If services are requested by the court, in either of the above circumstances, of the CSEA to determine the existence or non-existence of a parent and child relationship, a Title IV-D application must be completed and delivered to the CSEA. (R.C. 3111.381(B), (C), and (D).)

The act also eliminates a provision requiring the CSEA of the county in which the child resides to be made a party to a parentage action if (1) the person who initiates the action is a recipient of medical or disability assistance or Ohio Works First or (2) the CSEA is responsible under Title IV-D of the Social Security Act for the collection of support for the child who is the subject of the action. Instead, the act requires that the CSEA of the county in which the parentage action is brought always be notified of the juvenile court action and be given an opportunity to be heard during the proceedings. (R.C. 3111.07(A).)

Continuing law also provides that a parentage action may be brought in the juvenile court or other court with jurisdiction of the county in which the child, the child's mother, or the alleged father resides or is found or, if the alleged father is deceased, of the county in which proceedings for the probate of the alleged father's estate have been or can be commenced, or of the county in which the child is being provided support by the county department of job and family services of that county. Under the act, this provision does not apply to a situation when the child's mother or the putative father of the child brings an action to determine the

¹ *Allocation of parental rights and responsibilities is the determination of who has custody of a child.*

existence or nonexistence of a parent and child relationship without requesting an administrative determination. (R.C. 3111.06(A).)

HISTORY

ACTION	DATE
Introduced	03-15-05
Reported, H. Juvenile & Family Law	06-09-05
Passed House (99-0)	06-21-05
Reported, S. Judiciary on Civil Justice	12-13-05
Passed Senate (32-0)	01-10-06
House concurred in Senate amendments (93-0)	01-17-06

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