

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to S.P. 310, L.D. 819, Bill, "An Act to Provide an Expedited Process for the Commencement of Paternity Actions"

Amend the bill in that part designated "~~§517.~~" in subsection 1 in paragraph A by inserting at the end the following: 'or'

Further amend the bill in that part designated "~~§517.~~" in subsection 1 by striking out all of paragraph B.

Further amend the bill in that part designated "~~§517.~~" in subsection 1 by relettering the paragraphs to read consecutively.

Further amend the bill in that part designated "~~§517.~~" by striking out all of subsection 2 and inserting in its place the following:

'2. Blood or tissue typing tests. "Blood or tissue typing tests" means tests that demonstrate through examination of genetic markers the paternity of a child.'

Further amend the bill in that part designated "~~§517.~~" in subsection 5 in the first line (page 1, line 41 in L.D.) by striking out the following: "~~5. Proceeding. "Proceeding"~~" and inserting in its place the following: '5. Paternity proceeding. "Paternity proceeding"'

Further amend the bill in that part designated "~~§518.~~" by striking out all of subsection 2 and inserting in its place the following:

'2. Cause of action. A person who engages in sexual intercourse with a resident of this State in this State submits to the jurisdiction of the department for the purpose of commencing a paternity proceeding.'

2 Further amend the bill in that part designated "§520." in
the first paragraph in the first and 2nd lines (page 2, lines 16
4 and 17 in L.D.) by striking out the following: "issued under
section 521 upon a person in this State" and inserting in its
6 place the following: 'under section 521'

8 Further amend the bill in that part designated "§520." in
the first paragraph in the 3rd and 4th lines (page 2, lines 18
10 and 19 in L.D.) by striking out the following: "any person or
official" and inserting in its place the following: 'a person'
12 and in the 4th and 5th lines (page 2, lines 19 and 20 in L.D.) by
striking out the following: "Rule 4"

14 Further amend the bill in that part designated "§520." by
16 striking out all of the 2nd paragraph (page 2, lines 22 to 27 in
L.D.)

18 Further amend the bill in that part designated "§521." in
20 subsection 1 in the first and 2nd lines (page 2, lines 31 and 32
in L.D.) by striking out the following: "an action under chapter
22 5, subchapter III." and inserting in its place the following: 'a
paternity proceeding' and in the 7th to 9th lines (page 2, lines
24 37 to 39 in L.D.) by striking out the following: "engaged in
sexual intercourse with her during a possible time of conception
26 of the child that resulted in the conception of the child"

28 Further amend the bill in that part designated "§521." in
subsection 2 in paragraph A in the 2nd and 3rd lines (page 2,
30 lines 49 and 50 in L.D.) by striking out the following: "an
action under chapter 5, subchapter III." and inserting in its
32 place the following: 'a paternity proceeding'

34 Further amend the bill in that part designated "§521." in
subsection 2 in paragraph B in the 2nd and 3rd lines (page 3,
36 lines 2 and 3 in L.D.) by striking out the following: "the
Superior Court or the District Court" and inserting in its place
38 the following: 'court'

40 Further amend the bill in that part designated "§521." in
subsection 2 in paragraph B by striking out all of subparagraph
42 (3) (page 3, lines 10 to 15 in L.D.) and inserting in its place
the following:

44 '(3) The alleged father fails to execute and deliver
46 to the department an acknowledgment of paternity:'

48 Further amend the bill in that part designated "§521." in
subsection 2 by striking out all of paragraphs G to L and
50 inserting in their place the following:

2 'G. An allegation that the alleged father engaged in sexual
4 intercourse with the child's mother during a possible time
6 of conception of the child or is a man who is presumed to be
8 the child's father under state law, and that the alleged
10 father is or may be the natural father of the child;

12 H. If applicable, an allegation that the child may have
14 been conceived as a result of sexual intercourse in this
16 State and that the alleged father is subject to personal
18 jurisdiction under section 518;

20 I. A statement that the alleged father may deny the
22 allegation of paternity by filing a written denial of
24 paternity with the department within 20 days after service
26 of the notice; that if the alleged father fails to file a
28 written denial the proceeding will be filed in a court as a
30 paternity proceeding; and that the question of paternity and
32 any related issues under this subchapter may be resolved
34 against him by the court;

36 J. A statement that if the alleged father files a written
38 denial of paternity:

40 (1) The department will provide an expert examiner of
42 blood or tissue types to conduct blood or tissue typing
44 tests on the mother, child and alleged father and the
46 tests will be conducted as follows:

48 (a) The alleged father is required to submit to
50 tests, which may include, but are not limited to,
52 tests of red cell antigens, red cell isoenzymes,
human leukocyte antigens and serum proteins;

(b) The department will pay the initial cost of
the tests; and

(c) An indigent alleged father is not liable for
reimbursement of the cost of the tests;

(2) If the alleged father refuses to submit to tests
under subparagraph (1), the proceeding will be filed in
a court as a paternity proceeding;

(3) If the alleged father is not excluded by the test
results and he does not, within 15 days of the ordinary
mailing to him of a report and copy of the blood or
tissue typing results, execute and deliver to the
department an acknowledgment of paternity of the child
in accordance with the laws of the state in which the
child was born, the proceeding will be filed in a court
as a paternity proceeding; and

2 (4) If the alleged father is excluded by the test
4 results as the natural father of the child, the
6 proceeding will be filed in a court as a paternity
 proceeding for disposition under section 280,
 subsection 1, paragraph A;

8 K. A statement that if, prior to the filing in a court, the
10 alleged father executes and delivers to the department an
12 acknowledgment of paternity, the proceeding must terminate
 and the department may proceed against him under subchapter
 V; and

14 L. A statement that the alleged father may, within 25 days
16 after notice has been mailed to him that the record has been
 filed in a court, assert any defense, in law or fact, if the
 record is filed because the alleged father:

18 (1) Refuses to submit to blood or tissue typing tests;
20 or

22 (2) Fails to execute and deliver to the department an
 acknowledgment of paternity.'

24 Further amend the bill in that part designated "§522." in
26 subsection 2 in the 2nd and 3rd lines (page 5, lines 31 and 32 in
28 L.D.) by striking out the following: "the court determines
 reasonable and just" and inserting in its place the following:
 'required under the child support guidelines'

30 Further amend the bill in that part designated "§523." in
32 the first paragraph in the last line (page 6, line 16 in L.D.) by
 striking out the following: "maintained"

34 Further amend the bill in that part designated "§524." in
36 the first paragraph in the 2nd line (page 6, line 21 in L.D.) by
 striking out the following: "of a child" and in the 3rd line
38 (page 6, line 22 in L.D.) by striking out the following: "under
 this subchapter" and in the last line (page 6, line 26 in L.D.)
40 by striking out the following: "of the same child"

42 Further amend the bill in that part designated "§525." in
44 the first paragraph in the 4th and 5th lines (page 6, lines 33
46 and 34 in L.D.) by striking out the following: "of proper
 jurisdiction as a paternity action under chapter 5, subchapter
 III" and inserting in its place the following: 'as a paternity
 proceeding'

48 Further amend the bill in that part designated "§525." in
50 the first paragraph by striking out all of the last sentence
 (page 6, lines 35 to 37 in L.D.)

HOUSE AMENDMENT "A" to S.P. 310, L.D. 819

2 Further amend the bill in that part designated "~~§526.~~" in
3 subsection 1 in the last 2 lines (page 6, lines 49 and 50 in
4 L.D.) by striking out the following: "and that performs
deoxyribonucleic acid probes, selected by the department"

6 Further amend the bill in that part designated "~~§526.~~" in
7 subsection 2 in the 3rd and 4th lines (page 7, lines 3 and 4 in
8 L.D.) by striking out the following: "may not be conducted within
less than" and inserting in its place the following: 'must be
9 conducted no earlier than'

12 Further amend the bill in that part designated "~~§526.~~" by
13 striking out all of subsection 3 and inserting in its place the
14 following:

16 '3. Rescheduling of tests. If the alleged father does not
17 submit to the tests, the department shall notify him in writing
18 by ordinary mail that if he does not, within 15 days, request the
19 department to reschedule the tests, his failure to appear
20 constitutes a refusal to submit to the tests. If the alleged
21 father timely requests rescheduling, the department shall
22 reschedule the tests. The rescheduled tests must be conducted no
23 earlier than 15 days following the mailing of the notice of
24 rescheduling. The notice must also advise the alleged father
25 that, if he fails to submit to the rescheduled tests, the failure
26 constitutes a refusal to submit to the tests.'

28 Further amend the bill in that part designated "~~§527.~~" by
29 striking out all of the first paragraph (page 7, lines 32 to 40
30 in L.D.) and inserting in its place the following:

32 'If an alleged father refuses to submit to blood or tissue
33 typing tests, the department may file the record of the
34 proceeding in a court as a paternity proceeding. The alleged
35 father's refusal to submit to a test constitutes a refusal to
36 submit under section 277.'

38 Further amend the bill in that part designated "~~§528.~~" in
39 subsection 1 in the 2nd line (page 7, line 45 in L.D.) by
40 striking out the following: "blood"

42 Further amend the bill in that part designated "~~§528.~~" by
43 striking out all of subsection 2 and inserting in its place the
44 following:

46 '2. Exclusion of alleged father. If the alleged father is
47 excluded by the test results as the natural father of the child,
48 the department may file the record of the proceeding in a court
49 as a paternity proceeding for disposition under section 280,
50 subsection 1, paragraph A.'

2 Further amend the bill in that part designated "§528." in
subsection 3 in the 7th line (page 8, line 13 in L.D.) by
striking out the following: "department's attorney" and inserting
4 in its place the following: 'department'

6 Further amend the bill in that part designated "§528." in
subsection 3 in the 9th and 10th lines (page 8, lines 15 and 16
8 in L.D.) by striking out the following: "of proper jurisdiction
as a paternity action under chapter 5, subchapter III" and
10 inserting in its place the following: 'as a paternity proceeding'

12 Further amend the bill in that part designated "§528." in
subsection 3 by striking out all of the 2nd and 3rd sentences
14 (page 8, lines 16 to 21 in L.D.) and inserting in their place the
following: 'Section 280 applies to the action even though the
16 tests were performed and the results prepared as part of an
administrative proceeding.'

18 Further amend the bill in that part designated "§529." by
20 striking out all of the first paragraph (page 8, lines 28 to 37
in L.D.) and inserting in its place the following:

22
24 'If a record of the proceeding is filed under section 527 or
section 528, subsection 3, the alleged father is not required to
file an additional denial of paternity. He may assert any
26 defense, in law or fact. Any defense must be asserted within 25
days after the mailing by ordinary mail of a notice to the
28 alleged father that the record has been filed in court. The
notice must contain the substance of this section.'

30
32 Further amend the bill in that part designated "§530." in
the first paragraph in the first to 3rd lines (page 8, lines 41
to 43 in L.D.) by striking out all of the following: "of the
34 record of the proceeding in a court of proper jurisdiction
pursuant to section 525 or 527 or section 528, subsection 3," and
36 inserting in its place the following: 'in a court' and in the 6th
line (page 8, line 46 in L.D.) by striking out the following:
38 "abate," and inserting in its place the following: 'be terminated'

40 STATEMENT OF FACT

42
44 This amendment clarifies the original intent of the bill and
includes 3 significant changes approved by the Joint Standing
Committee on Judiciary.

46
48 1. One category of "alleged father" is eliminated because
it is entirely contained in one of the 2 remaining categories.

50
52 2. It revises the jurisdiction section to cover only those
who engage in sexual intercourse in the State with a resident of
the State.

HOUSE AMENDMENT "A" to S.P. 310, L.D. 819

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3. It specifically refers to the child support guidelines in authorizing the court to award child support.

Filed by Representative Paradis of Augusta.
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(5/16/91) (Filing No. H-340)