

SENATE BILL 1

D4

9lr0090

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Human Services)**

Requested: October 29, 2018

Introduced and read first time: January 9, 2019

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: January 29, 2019

CHAPTER _____

1 AN ACT concerning

2 **Paternity Proceedings – Attorney for the Child Support Administration**

3 FOR the purpose of substituting the term “attorney for the Administration” for the term
4 “State’s Attorney” in certain provisions of law relating to paternity proceedings;
5 defining the term “attorney for the Administration”; making certain conforming and
6 technical changes, including specifying that certain provisions of law apply only to
7 certain jurisdictions; and generally relating to paternity proceedings and attorneys
8 for the Child Support Administration.

9 BY repealing and reenacting, with amendments,
10 Article – Family Law
11 Section 5–1001, 5–1010(e), 5–1016, 5–1019, 5–1020, and 5–1021
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2018 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Family Law
16 Section 10–115(c)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2018 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Family Law

1

2 5–1001.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) “Administration” means the Child Support Administration of the Department.

5 (c) **“ATTORNEY FOR THE ADMINISTRATION” MEANS AN ATTORNEY WHO**
6 **REPRESENTS THE ADMINISTRATION IN ACCORDANCE WITH § 10–115(C) OF THIS**
7 **ARTICLE.**8 [(c)] (d) “Complaint” means a bill or petition in equity filed in a paternity
9 proceeding.

10 5–1010.

11 (e) (1) Except as provided in paragraph (2) of this subsection, the clerk of court
12 may not receive a complaint starting paternity proceedings unless the consent of the
13 [State’s Attorney] **ATTORNEY FOR THE ADMINISTRATION** is attached to the complaint.14 (2) The consent of the [State’s Attorney] **ATTORNEY FOR THE**
15 **ADMINISTRATION** is not required if[:

16 (i) the complaint is filed on behalf of the Administration; or

17 (ii)], after considering testimony or information given by affidavit, or
18 both, the court:

19 [1.] (I) finds that the complaint is meritorious; and

20 [2.] (II) rules that the consent is not required.

21 (3) Except by an order of court for good cause shown, a proceeding under
22 this subtitle may not be dismissed voluntarily without the consent of the [State’s Attorney]
23 **ATTORNEY FOR THE ADMINISTRATION.**

24 5–1016.

25 (a) (1) Before or after the filing of a complaint, the alleged father may propose
26 a settlement concerning the child’s support whether the alleged father admits or denies
27 paternity.28 (2) The proposed contribution may be in a lump sum, installments, or
29 otherwise.

1 (b) A settlement agreement shall be prepared, executed, and submitted to the
2 court for approval if:

3 (1) the complainant agrees to accept the settlement;

4 (2) the [State's Attorney] **ATTORNEY FOR THE ADMINISTRATION** is
5 satisfied that the amount and terms of the settlement are fair and reasonable;

6 (3) the complainant has been advised properly regarding the contents of
7 the settlement; and

8 (4) the complainant is competent to accept the settlement.

9 (c) If the court approves the settlement agreement, the terms of the agreement
10 shall be incorporated in a court order.

11 (d) A court order incorporating a settlement agreement is as enforceable as any
12 order that is passed after a hearing.

13 5-1019.

14 **(A) THIS SECTION APPLIES ONLY TO JURISDICTIONS IN WHICH THE**
15 **ADMINISTRATION IS REPRESENTED BY A STATE'S ATTORNEY.**

16 **[(a)] (B)** Before or after a complaint is filed under this subtitle, the State's
17 Attorney may hold a pretrial inquiry.

18 **[(b)] (C)** In connection with any pretrial inquiry under this section, the State's
19 Attorney may:

20 (1) issue a summons that requires a person, other than the alleged father,
21 to appear, to testify, and to produce documents connected with the examination;

22 (2) administer oaths;

23 (3) examine witnesses; and

24 (4) receive evidence.

25 **[(c)] (D)** (1) If a person fails to obey a summons, or fails to testify or comply
26 with a request of the State's Attorney, the State's Attorney may request the circuit court
27 for the county to order the person:

28 (i) to obey the summons;

1 (ii) to testify; or

2 (iii) to produce any document that the court considers necessary for
3 the inquiry.

4 (2) If a person fails or refuses to obey the order of court after the order has
5 been served, the person is in contempt of court and the court may punish the person for the
6 contempt.

7 (3) A finding of contempt under this subsection is subject to appeal.

8 5–1020.

9 (A) **THIS SECTION APPLIES ONLY TO JURISDICTIONS IN WHICH THE**
10 **ADMINISTRATION IS REPRESENTED BY A STATE’S ATTORNEY.**

11 (B) Before the State’s Attorney conducts a pretrial inquiry under this subtitle, the
12 State’s Attorney shall notify the parties in writing of:

13 (1) the time and place of the inquiry;

14 (2) the alleged father’s right to appear at the inquiry and to produce
15 evidence or information that relates to the inquiry; and

16 (3) the alleged father’s right to testify in his own behalf before the State’s
17 Attorney, if the alleged father:

18 (i) notifies the State’s Attorney of the alleged father’s desire to
19 testify; and

20 (ii) signs a waiver that permits his testimony to be used against him
21 in the paternity proceeding.

22 5–1021.

23 (a) [In connection with a pretrial inquiry under this subtitle, the State’s
24 Attorney] **THE ATTORNEY FOR THE ADMINISTRATION** may request any individual
25 [summoned to the pretrial inquiry] **NAMED IN A PATERNITY COMPLAINT** to submit to a
26 blood or genetic test.

27 (b) If the individual refuses the [State’s Attorney’s] **ATTORNEY FOR THE**
28 **ADMINISTRATION’S** request to submit to a blood or genetic test, the [State’s Attorney]
29 **ATTORNEY FOR THE ADMINISTRATION** may apply to the circuit court for an order that
30 directs the individual to submit to the test.

31 10–115.

- 1 (c) In a legal proceeding, the Administration shall be represented by:
- 2 (1) the Attorney General;
- 3 (2) the State's Attorney, if the State's Attorney has agreed to provide
4 representation under subsection (g) of this section; or
- 5 (3) a qualified lawyer who is appointed by and subject to supervision and
6 removal by the Attorney General.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.