
By: **Delegates Menes and Grosfeld**
Introduced and read first time: January 30, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Paternity Proceedings - Limitation on Order Vacating**
3 **Paternity Judgment**

4 FOR the purpose of establishing that if the court sets aside a declaration of paternity,
5 the individual who had been named as the father in the order remains liable for
6 child support arrearages accrued before the date of the order setting aside the
7 declaration of paternity and may not recoup any child support paid; and
8 generally relating to setting aside declarations of paternity.

9 BY repealing and reenacting, with amendments,
10 Article - Family Law
11 Section 5-1038
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2001 Supplement)

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

16 **Article - Family Law**

17 5-1038.

18 (a) (1) Except as provided in paragraph (2) of this subsection, a declaration
19 of paternity in an order is final.

20 (2) (i) A declaration of paternity may be modified or set aside:

21 1. in the manner and to the extent that any order or decree of
22 an equity court is subject to the revisory power of the court under any law, rule, or
23 established principle of practice and procedure in equity; or

24 2. if a blood or genetic test done in accordance with § 5-1029
25 of this subtitle establishes the exclusion of the individual named as the father in the
26 order.

1 (ii) Notwithstanding subparagraph (i) of this paragraph, a
2 declaration of paternity may not be modified or set aside if the individual named in
3 the order acknowledged paternity knowing he was not the father.

4 (B) IF THE COURT SETS ASIDE A DECLARATION OF PATERNITY UNDER
5 SUBSECTION (A)(2)(I) OF THIS SECTION, THE INDIVIDUAL WHO HAD BEEN NAMED AS
6 THE FATHER IN THE ORDER:

7 (1) REMAINS LIABLE FOR ANY CHILD SUPPORT ARREARAGES ACCRUED
8 BEFORE THE DATE OF THE ORDER SETTING ASIDE THE DECLARATION OF
9 PATERNITY; AND

10 (2) MAY NOT RECOUP ANY CHILD SUPPORT PAID BEFORE THE DATE OF
11 THE ORDER SETTING ASIDE THE DECLARATION OF PATERNITY.

12 [(b)] (C) Except for a declaration of paternity, the court may modify or set
13 aside any order or part of an order under this subtitle as the court considers just and
14 proper in light of the circumstances and in the best interests of the child.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2002.