

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 536

(Delegate Dumais, *et al.*)

Judiciary

Judicial Proceedings

Family Law - Paternity - Dependent Disabled Child

This bill provides that a proceeding to establish the paternity of a child who is dependent on a parent due to a physical or mental disability may commence at any time before the child's twenty-first birthday.

Fiscal Summary

State Effect: The bill's requirements could be met with existing resources.

Local Effect: The bill's requirements could be met with existing resources.

Small Business Effect: None.

Analysis

Current Law: A proceeding to establish the paternity of a child must commence at any time before the child's eighteenth birthday and may be begun during pregnancy. A paternity proceeding is not barred because the child was born out of wedlock or born outside of Maryland. A proceeding to establish paternity may not commence once the child reaches 18.

Background: The statute of limitations for paternity proceedings does not provide for an extension due to extenuating circumstances, such as the disability of an adult dependent child. In a recent case, *Trenbow v. Schonfeld* 393 Md. 327 (2006), the Court of Appeals ruled that the mother of a disabled, destitute adult child born out of wedlock was not entitled to try to establish paternity once the child reached 18.

Victoria Trenbow filed suit to establish that Alan Schonfeld was the father of her child. She alleged that the parties had a child, born in 1983. At age 13, the child was diagnosed with a genetic degenerative bone disorder. As a result, he became permanently disabled before reaching 18. Ms. Trenbow alleged that the child resided with her and because of his physical disability, was unable to earn a living.

The Court of Appeals stated that under the Family Law Article, a proceeding to establish paternity may be begun at any time before the child's eighteenth birthday. According to the court, the statute, on its face, requires that a paternity action be brought prior to the child's eighteenth birthday. The court pointed out that had paternity been established before the disabled child reached 18, both the mother and the child, directly, or if incompetent, through a guardian, would have been entitled to seek support for the child both during the child's minority and after the child became a destitute adult.

State and Local fiscal Impact: The Administrative Office of the Courts advises that the bill is unlikely to significantly increase the number of paternity filings. In most instances, these actions would be raised prior to the child reaching 18.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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