

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 178 (Chair, Judicial Proceedings Committee)(By Request -
 Departmental - Human Resources)

Judicial Proceedings

Judiciary

Family Law - Blood or Genetic Test Results - Legal Finding of Paternity

This departmental bill establishes that, in cases in which the Child Support Enforcement Administration (CSEA) is providing child support services, a laboratory report of a blood or genetic test constitutes a presumptive finding of paternity if the test was conducted by a laboratory selected by the court from a list provided by CSEA and the report establishes a statistical probability of paternity of at least 99.0%. If the alleged father fails to file a timely challenge to a presumptive finding, the laboratory report constitutes a legal finding of paternity. The bill authorizes CSEA to file specified information with the Division of Vital Records within the Department of Health and Mental Hygiene (DHMH) and requires DHMH to issue a new birth certificate under specified conditions.

Fiscal Summary

State Effect: Federal fund expenditures decrease by an estimated \$449,600 in FY 2014 and by \$599,400 annually thereafter, reflecting a reduction in Temporary Cash Assistance (TCA) payments as a result of families whose incomes will exceed eligibility requirements once they begin receiving child support. Minimal increase in special fund revenues due to additional child support collected. DHMH can handle the bill's requirements using existing resources. Potential minimal decrease in general fund expenditures for the Judiciary as a result of fewer paternity cases being handled by the circuit courts.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	-	-	-	-	-
FF Expenditure	(\$449,600)	(\$599,400)	(\$599,400)	(\$599,400)	(\$599,400)
Net Effect	\$449,600	\$599,400	\$599,400	\$599,400	\$599,400

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential minimal decrease in circuit court expenditures.

Small Business Effect: The Department of Human Resources (DHR) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: CSEA must serve a notice of the presumptive finding of paternity on the alleged father. The notice must (1) state that the laboratory report of a blood or genetic test establishes a statistical probability of paternity of at least 99.0%; (2) state that the laboratory report constitutes a presumptive finding of paternity; (3) advise the alleged father of his right to challenge the presumptive finding in court and have the court determine paternity; (4) explain the procedure for challenging the presumptive finding of paternity; (5) state that if the alleged father fails to challenge the presumptive finding of paternity within 45 days after being served with the notice, the laboratory report will constitute a legal finding of paternity; and (6) advise the alleged father of the consequences of a legal finding of paternity. CSEA may not establish a child support obligation before the conclusion of a challenge by an alleged father to a presumptive finding of paternity.

If the results of a laboratory report constitute a legal finding of paternity, CSEA may file a copy of the report with the Division of Vital Records within DHMH. For each determination of parentage, CSEA may provide (1) the full name and date and place of birth of the child whose parentage has been determined; (2) the full name of both parents, including the maiden name, if any, of the mother; and (3) the name and address of any person who can furnish the information necessary to complete a new birth record. DHMH must make a new birth certificate for an individual if it receives satisfactory proof that CSEA has submitted a laboratory report of a blood or genetic test that constitutes a legal finding of paternity.

The bill's provisions do not apply to cases in which (1) the custodial parent or the child for whom child support is to be paid is the victim of domestic violence, sexual assault, or rape by the noncustodial parent; (2) the child for whom child support is to be paid was conceived as a rape by the noncustodial parent; (3) the child for whom child support is to be paid was born or conceived during a marriage; or (4) parentage of the child for whom child support is to be paid has been determined under a specified provision of the Estates and Trusts Article.

Current Law: If a child is born to parents who were married at the time of conception, there is a rebuttable presumption that the child is the legitimate child of the husband. An unmarried mother and father may establish paternity by signing an affidavit of parentage; otherwise paternity can only be established through a judicial process.

CSEA may request a mother, child, and alleged father to submit to blood or genetic tests. If an individual fails to comply, CSEA may apply to the circuit court for an order directing the individual to submit to the test. On the motion of CSEA, a party to the proceeding, or on its own motion, the court must order the mother, child, and alleged father to submit to blood or genetic tests to determine whether the alleged father can be excluded as the father. Testing must be performed in a laboratory selected by the court, and copies of the laboratory results must be provided to the parties or their attorneys.

A laboratory report must be received in evidence if definite exclusion is established or the testing is sufficiently extensive to exclude 97.3% of alleged fathers who are not biological fathers and the statistical probability of the alleged father's paternity is at least 97.3%. A laboratory report received into evidence that establishes a statistical probability of the alleged father's paternity of at least 99% constitutes a rebuttable presumption of paternity.

On motion of CSEA or any party to the proceedings and after due consideration by the court, the court must pass a temporary order for the support of the child if a laboratory report establishes a statistical probability of paternity of at least 99% and the court determines that the putative father has the ability to provide temporary support for the child.

Background: DHR indicates that the bill reduces delays in establishing paternity by modernizing how the State handles genetic test results at or above the 99.0% threshold. DHR advises that approximately three out of four putative fathers who have submitted to genetic testing receive reports indicating a probability of paternity of 99.0% or higher. According to DHR, although genetic test results are usually available within 10 days, establishing paternity can take approximately 90 days due to the necessity of judicial involvement.

DHR further advises that statutes in the District of Columbia and at least 13 other states, including Delaware, Pennsylvania, and Virginia, provide for the establishment of paternity as a legal finding without court action.

State Fiscal Effect: Federal fund expenditures decrease by approximately \$449,550 in fiscal 2014, which accounts for the bill's October 1, 2013 effective date, and by \$599,400 annually thereafter, by expediting the ability for custodial parents to receive child support due to the streamlined establishment of paternity. DHR advises that in approximately

3,000 of its cases annually, a putative father submits to a genetic test that results in a finding of paternity at or above the 99.0% threshold. Under current law, the noncustodial parent must still wait approximately three months for paternity to be legally established through the courts, during which time the parent is not eligible for child support. In approximately 900 of these cases, the custodial parent's income without the child support meets eligibility requirements for Temporary Cash Assistance (TCA), with an average monthly payment of \$444 per family. Streamlining the process for establishing paternity decreases federal fund expenditures, as once a number of these families begin receiving child support, their incomes will exceed the eligibility threshold and they will no longer qualify for TCA. The estimated expenditure decrease will be mitigated to the extent that alleged fathers file timely challenges to the presumptive finding, as TCA payments continue until a legal finding of paternity is established.

Some families may remain eligible for TCA even after they begin receiving child support. TCA recipients must assign their support rights to the State and federal government as partial reimbursement for TCA payments on behalf of the children of the obligor; as a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Accordingly, the State and federal governments would share equally in any increase in collection revenues due to a reduction in the time the recipients must wait to begin receiving child support; however, any increase is expected to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 8, 2013
ncs/kdm Revised - Senate Third Reader - March 26, 2013

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Blood or Genetic Test Results – Legal Finding of Paternity

BILL NUMBER: SB 178

PREPARED BY: Maryland Dept of Human Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.