



Sen. Iris Y. Martinez

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1 AMENDMENT TO SENATE BILL 2827

2 AMENDMENT NO. _____. Amend Senate Bill 2827 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by
5 changing Section 10-17.7 as follows:

6 (305 ILCS 5/10-17.7)

7 Sec. 10-17.7. Administrative determination of paternity.
8 The Illinois Department may provide by rule for the
9 administrative determination of paternity by the Child and
10 Spouse Support Unit in cases involving applicants for or
11 recipients of financial aid under Article IV of this Act and
12 other persons who are given access to the child support
13 enforcement services of this Article as provided in Section
14 10-1, including persons similarly situated and receiving
15 similar services in other states. The rules shall extend to
16 cases in which the mother and alleged father voluntarily

1 acknowledge paternity in the form required by the Illinois
2 Department or agree to be bound by the results of genetic
3 testing or in which the alleged father has failed to respond to
4 a notification of support obligation issued under Section 10-4
5 and to cases of contested paternity. The Illinois Department's
6 form for voluntary acknowledgement of paternity shall be the
7 same form prepared by the Illinois Department for use under the
8 requirements of Section 12 of the Vital Records Act. Any
9 presumption provided for under the Illinois Parentage Act of
10 1984 shall apply to cases in which paternity is determined
11 under the rules of the Illinois Department. The rules shall
12 provide for notice and an opportunity to be heard by the
13 responsible relative and the person receiving child support
14 enforcement services under this Article if paternity is not
15 voluntarily acknowledged, and any final administrative
16 decision rendered by the Illinois Department shall be reviewed
17 only under and in accordance with the Administrative Review
18 Law. Determinations of paternity made by the Illinois
19 Department under the rules authorized by this Section shall
20 have the full force and effect of a court judgment of paternity
21 entered under the Illinois Parentage Act of 1984.

22 In determining paternity in contested cases, the Illinois
23 Department shall conduct the evidentiary hearing in accordance
24 with Section 11 of the Parentage Act of 1984, except that
25 references in that Section to "the court" shall be deemed to
26 mean the Illinois Department's hearing officer in cases in

1 which paternity is determined administratively by the Illinois
2 Department.

3 Notwithstanding any other provision of this Article, a
4 default determination of paternity may be made if service of
5 the notice under Section 10-4 was made by publication under the
6 rules for administrative paternity determination authorized by
7 this Section. The rules as they pertain to service by
8 publication shall (i) be based on the provisions of Section
9 2-206 and 2-207 of the Code of Civil Procedure, (ii) provide
10 for service by publication in cases in which the whereabouts of
11 the alleged father are unknown after diligent location efforts
12 by the Child and Spouse Support Unit, and (iii) provide for
13 publication of a notice of default paternity determination in
14 the same manner that the notice under Section 10-4 was
15 published.

16 The Illinois Department may implement this Section through
17 the use of emergency rules in accordance with Section 5-45 of
18 the Illinois Administrative Procedure Act. For purposes of the
19 Illinois Administrative Procedure Act, the adoption of rules to
20 implement this Section shall be considered an emergency and
21 necessary for the public interest, safety, and welfare.

22 (Source: P.A. 92-590, eff. 7-1-02.)

23 Section 10. The Vital Records Act is amended by changing
24 Section 12 as follows:

1 (410 ILCS 535/12) (from Ch. 111 1/2, par. 73-12)

2 Sec. 12. Live births; place of registration.

3 (1) Each live birth which occurs in this State shall be
4 registered with the local or subregistrar of the district in
5 which the birth occurred as provided in this Section, within 7
6 days after the birth. When a birth occurs on a moving
7 conveyance, the city, village, township, or road district in
8 which the child is first removed from the conveyance shall be
9 considered the place of birth and a birth certificate shall be
10 filed in the registration district in which the place is
11 located.

12 (2) When a birth occurs in an institution, the person in
13 charge of the institution or his designated representative
14 shall obtain and record all the personal and statistical
15 particulars relative to the parents of the child that are
16 required to properly complete the live birth certificate; shall
17 secure the required personal signatures on the hospital
18 worksheet; shall prepare the certificate from this worksheet;
19 and shall file the certificate with the local registrar. The
20 institution shall retain the hospital worksheet permanently or
21 as otherwise specified by rule. The physician in attendance
22 shall verify or provide the date of birth and medical
23 information required by the certificate, within 24 hours after
24 the birth occurs.

25 (3) When a birth occurs outside an institution, the
26 certificate shall be prepared and filed by one of the following

1 in the indicated order of priority:

2 (a) The physician in attendance at or immediately after
3 the birth, or in the absence of such a person,

4 (b) Any other person in attendance at or immediately
5 after the birth, or in the absence of such a person,

6 (c) The father, the mother, or in the absence of the
7 father and the inability of the mother, the person in
8 charge of the premises where the birth occurred.

9 (4) Unless otherwise provided in this Act, if the mother
10 was not married to the father of the child at either the time
11 of conception or the time of birth, the name of the father
12 shall be entered on the child's birth certificate only if the
13 mother and the person to be named as the father have signed an
14 acknowledgment of parentage in accordance with subsection (5).

15 Unless otherwise provided in this Act, if the mother was
16 married at the time of conception or birth and the presumed
17 father (that is, the mother's husband) is not the biological
18 father of the child, the name of the biological father shall be
19 entered on the child's birth certificate only if, in accordance
20 with subsection (5), (i) the mother and the person to be named
21 as the father have signed an acknowledgment of parentage and
22 (ii) the mother and presumed father have signed a denial of
23 paternity.

24 (5) Upon the birth of a child to an unmarried woman, or
25 upon the birth of a child to a woman who was married at the time
26 of conception or birth and whose husband is not the biological

1 father of the child, the institution at the time of birth and
2 the local registrar or county clerk after the birth shall do
3 the following:

4 (a) Provide (i) an opportunity for the child's mother
5 and father to sign an acknowledgment of parentage and (ii)
6 if the presumed father is not the biological father, an
7 opportunity for the mother and presumed father to sign a
8 denial of paternity. The signing and witnessing of the
9 acknowledgment of parentage or, if the presumed father of
10 the child is not the biological father, the acknowledgment
11 of parentage and denial of paternity conclusively
12 establishes a parent and child relationship in accordance
13 with Sections 5 and 6 of the Illinois Parentage Act of
14 1984.

15 The Department of Healthcare and Family Services shall
16 furnish the acknowledgment of parentage and denial of
17 paternity form to institutions, county clerks, and State
18 and local registrars' offices. The form shall include
19 instructions to send the original signed and witnessed
20 acknowledgment of parentage and denial of paternity to the
21 Department of Healthcare and Family Services. The
22 acknowledgement of paternity and denial of paternity form
23 shall also include a statement informing the mother, the
24 alleged father, and the presumed father, if any, that they
25 have the right to request deoxyribonucleic acid (DNA) tests
26 regarding the issue of the child's paternity and that by

1 signing the form, they expressly waive such tests.

2 (b) Provide the following documents, furnished by the
3 Department of Healthcare and Family Services, to the
4 child's mother, biological father, and (if the person
5 presumed to be the child's father is not the biological
6 father) presumed father for their review at the time the
7 opportunity is provided to establish a parent and child
8 relationship:

9 (i) An explanation of the implications of,
10 alternatives to, legal consequences of, and the rights
11 and responsibilities that arise from signing an
12 acknowledgment of parentage and, if necessary, a
13 denial of paternity, including an explanation of the
14 parental rights and responsibilities of child support,
15 visitation, custody, retroactive support, health
16 insurance coverage, and payment of birth expenses.

17 (ii) An explanation of the benefits of having a
18 child's parentage established and the availability of
19 parentage establishment and child support enforcement
20 services.

21 (iii) A request for an application for child
22 support enforcement services from the Department of
23 Healthcare and Family Services.

24 (iv) Instructions concerning the opportunity to
25 speak, either by telephone or in person, with staff of
26 the Department of Healthcare and Family Services who

1 are trained to clarify information and answer
2 questions about paternity establishment.

3 (v) Instructions for completing and signing the
4 acknowledgment of parentage and denial of paternity.

5 (c) Provide an oral explanation of the documents and
6 instructions set forth in subdivision (5) (b), including an
7 explanation of the implications of, alternatives to, legal
8 consequences of, and the rights and responsibilities that
9 arise from signing an acknowledgment of parentage and, if
10 necessary, a denial of paternity. The oral explanation may
11 be given in person or through the use of video or audio
12 equipment.

13 (6) The institution, State or local registrar, or county
14 clerk shall provide an opportunity for the child's father or
15 mother to sign a rescission of parentage. The signing and
16 witnessing of the rescission of parentage voids the
17 acknowledgment of parentage and nullifies the presumption of
18 paternity if executed and filed with the Department of
19 Healthcare and Family Services (formerly Illinois Department
20 of Public Aid) within the time frame contained in Section 5 of
21 the Illinois Parentage Act of 1984. The Department of
22 Healthcare and Family Services shall furnish the rescission of
23 parentage form to institutions, county clerks, and State and
24 local registrars' offices. The form shall include instructions
25 to send the original signed and witnessed rescission of
26 parentage to the Department of Healthcare and Family Services.

1 (7) An acknowledgment of paternity signed pursuant to
2 Section 6 of the Illinois Parentage Act of 1984 may be
3 challenged in court only on the basis of fraud, duress, or
4 material mistake of fact, with the burden of proof upon the
5 challenging party. Pending outcome of a challenge to the
6 acknowledgment of paternity, the legal responsibilities of the
7 signatories shall remain in full force and effect, except upon
8 order of the court upon a showing of good cause.

9 (8) When the process for acknowledgment of parentage as
10 provided for under subsection (5) establishes the paternity of
11 a child whose certificate of birth is on file in another state,
12 the Department of Healthcare and Family Services shall forward
13 a copy of the acknowledgment of parentage, the denial of
14 paternity, if applicable, and the rescission of parentage, if
15 applicable, to the birth record agency of the state where the
16 child's certificate of birth is on file.

17 (9) In the event the parent-child relationship has been
18 established in accordance with subdivision (a)(1) of Section 6
19 of the Parentage Act of 1984, the names of the biological
20 mother and biological father so established shall be entered on
21 the child's birth certificate, and the names of the surrogate
22 mother and surrogate mother's husband, if any, shall not be on
23 the birth certificate.

24 (Source: P.A. 95-331, eff. 8-21-07.)

25 Section 15. The Illinois Parentage Act of 1984 is amended

1 by changing Section 11 as follows:

2 (750 ILCS 45/11) (from Ch. 40, par. 2511)

3 Sec. 11. Tests to determine inherited characteristics.

4 (a) In any action brought under Section 7 to determine the
5 existence of the father and child relationship or to declare
6 the non-existence of the parent and child relationship, the
7 court or Administrative Hearing Officer in an Expedited Child
8 Support System shall, prior to the entry of a judgment in the
9 case, advise the respondent who appears of the right to request
10 an order that the parties and the child submit to
11 deoxyribonucleic acid (DNA) tests to determine inherited
12 characteristics. The advisement shall be noted in the record.

13 As soon as practicable, the court or Administrative Hearing
14 Officer in an Expedited Child Support System may, and upon
15 request of a party shall, order or direct the mother, child and
16 alleged father to submit to deoxyribonucleic acid (DNA) tests
17 to determine inherited characteristics. If any party refuses to
18 submit to the tests, the court may resolve the question of
19 paternity against that party or enforce its order if the rights
20 of others and the interests of justice so require.

21 (b) The tests shall be conducted by an expert qualified as
22 an examiner of blood or tissue types and appointed by the
23 court. The expert shall determine the testing procedures.
24 However, any interested party, for good cause shown, in advance
25 of the scheduled tests, may request a hearing to object to the

1 qualifications of the expert or the testing procedures. The
2 expert appointed by the court shall testify at the pre-test
3 hearing at the expense of the party requesting the hearing,
4 except as provided in subsection (h) of this Section for an
5 indigent party. An expert not appointed by the court shall
6 testify at the pre-test hearing at the expense of the party
7 retaining the expert. Inquiry into an expert's qualifications
8 at the pre-test hearing shall not affect either parties' right
9 to have the expert qualified at trial.

10 (c) The expert shall prepare a written report of the test
11 results. If the test results show that the alleged father is
12 not excluded, the report shall contain a combined paternity
13 index relating to the probability of paternity. The expert may
14 be called by the court as a witness to testify to his or her
15 findings and, if called, shall be subject to cross-examination
16 by the parties. If the test results show that the alleged
17 father is not excluded, any party may demand that other
18 experts, qualified as examiners of blood or tissue types,
19 perform independent tests under order of court, including, but
20 not limited to, blood types or other tests of genetic markers
21 such as those found by Human Leucocyte Antigen (HLA) tests. The
22 results of the tests may be offered into evidence. The number
23 and qualifications of the experts shall be determined by the
24 court.

25 (d) Documentation of the chain of custody of the blood or
26 tissue samples, accompanied by an affidavit or certification in

1 accordance with Section 1-109 of the Code of Civil Procedure,
2 is competent evidence to establish the chain of custody.

3 (e) The report of the test results prepared by the
4 appointed expert shall be made by affidavit or by certification
5 as provided in Section 1-109 of the Code of Civil Procedure and
6 shall be mailed to all parties. A proof of service shall be
7 filed with the court. The verified report shall be admitted
8 into evidence at trial without foundation testimony or other
9 proof of authenticity or accuracy, unless a written motion
10 challenging the admissibility of the report is filed by either
11 party within 28 days of receipt of the report, in which case
12 expert testimony shall be required. A party may not file such a
13 motion challenging the admissibility of the report later than
14 28 days before commencement of trial. Before trial, the court
15 shall determine whether the motion is sufficient to deny
16 admission of the report by verification. Failure to make that
17 timely motion constitutes a waiver of the right to object to
18 admission by verification and shall not be grounds for a
19 continuance of the hearing to determine paternity.

20 (f) Tests taken pursuant to this Section shall have the
21 following effect:

22 (1) If the court finds that the conclusion of the
23 expert or experts, as disclosed by the evidence based upon
24 the tests, is that the alleged father is not the parent of
25 the child, the question of paternity shall be resolved
26 accordingly.

1 (2) If the experts disagree in their findings or
2 conclusions, the question shall be weighed with other
3 competent evidence of paternity.

4 (3) If the tests show that the alleged father is not
5 excluded and that the combined paternity index is less than
6 500 to 1, this evidence shall be admitted by the court and
7 shall be weighed with other competent evidence of
8 paternity.

9 (4) If the tests show that the alleged father is not
10 excluded and that the combined paternity index is at least
11 500 to 1, the alleged father is presumed to be the father,
12 and this evidence shall be admitted. This presumption may
13 be rebutted by clear and convincing evidence.

14 (g) Any presumption of parentage as set forth in Section 5
15 of this Act is rebutted if the court finds that the conclusion
16 of the expert or experts excludes paternity of the presumed
17 father.

18 (h) The expense of the tests shall be paid by the party who
19 requests the tests. Where the tests are requested by the party
20 seeking to establish paternity and that party is found to be
21 indigent by the court, the expense shall be paid by the public
22 agency providing representation; except that where a public
23 agency is not providing representation, the expense shall be
24 paid by the county in which the action is brought. Where the
25 tests are ordered by the court on its own motion or are
26 requested by the alleged or presumed father and that father is

1 found to be indigent by the court, the expense shall be paid by
2 the county in which the action is brought. Any part of the
3 expense may be taxed as costs in the action, except that no
4 costs may be taxed against a public agency that has not
5 requested the tests.

6 (i) The compensation of each expert witness appointed by
7 the court shall be paid as provided in subsection (h) of this
8 Section. Any part of the payment may be taxed as costs in the
9 action, except that no costs may be taxed against a public
10 agency that has not requested the services of the expert
11 witness.

12 (j) Nothing in this Section shall prevent any party from
13 obtaining tests of his or her own blood or tissue independent
14 of those ordered by the court or from presenting expert
15 testimony interpreting those tests or any other blood tests
16 ordered pursuant to this Section. Reports of all the
17 independent tests, accompanied by affidavit or certification
18 pursuant to Section 1-109 of the Code of Civil Procedure, and
19 notice of any expert witnesses to be called to testify to the
20 results of those tests shall be submitted to all parties at
21 least 30 days before any hearing set to determine the issue of
22 parentage.

23 (Source: P.A. 87-428; 87-435; 88-353; 88-687, eff. 1-24-95.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."