



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5865

by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/10-14.1

750 ILCS 45/4.1

750 ILCS 45/8

from Ch. 40, par. 2508

Amends the Illinois Public Aid Code and the Illinois Parentage Act of 1984. Provides that an administrative determination of paternity that is not based on a voluntary acknowledgment of paternity made in accordance with the Illinois Public Aid Code may be challenged in court on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenging party and that, pending the outcome of the challenge to the administrative determination of paternity, the legal responsibilities of the parties shall remain in full force and effect, except upon order of the court upon a showing of good cause. Provides that evidence that, based on DNA testing, the man who has been found to be the father of a child under an administrative determination of paternity is not the natural father of the child constitutes a material mistake of fact. Provides that an action challenging an administrative determination of paternity is barred if brought more than 6 months after the effective date of the amendatory Act or more than 2 years after the petitioner obtains actual knowledge of relevant facts, whichever is later, and that the 2-year period for bringing an action shall not extend beyond the date on which the child reaches the age of 18 years. Effective immediately.

LRB098 17720 KTG 52835 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 10-14.1 as follows:

6 (305 ILCS 5/10-14.1)

7 Sec. 10-14.1. Relief from administrative orders.

8 (a) Subject to subsection (b), notwithstanding

9 ~~Notwithstanding~~ the 30-day appeal period provided in Sections  
10 10-12 and 10-12.1 and the limitation on review of final  
11 administrative decisions contained in Section 10-14, a  
12 responsible relative or a person receiving child support  
13 enforcement services under this Article who is aggrieved by an  
14 administrative order entered under Section 10-11 or 10-11.1 or  
15 an administrative determination of paternity entered under  
16 Section 10-17.7 and who did not petition within the 30-day  
17 appeal period may petition the Illinois Department for relief  
18 from the administrative order or determination on the same  
19 grounds as are provided for relief from judgments under Section  
20 2-1401 of the Code of Civil Procedure. The petition must be  
21 filed not later than 2 years after the entry of the order or  
22 determination by the Illinois Department. The day immediately  
23 subsequent to the mailing of the order or determination shall

1 be considered as the first day and the day the petition is  
2 received by the Illinois Department shall be considered as the  
3 last day in computing the 2-year period. Any period during  
4 which the person seeking relief is under a legal disability or  
5 duress or during which the grounds for relief are fraudulently  
6 concealed shall be excluded in computing the period of 2 years.

7 Upon receiving a petition within the 2-year period, the  
8 Illinois Department shall provide for a hearing to be held on  
9 the petition.

10 (b) Nothing in this Section shall be construed to prohibit  
11 an action under subsection (b) of Section 4.1 of the Illinois  
12 Parentage Act of 1984 to challenge an administrative  
13 determination of paternity entered under Section 10-17.7.

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

15 Section 10. The Illinois Parentage Act of 1984 is amended  
16 by changing Sections 4.1 and 8 as follows:

17 (750 ILCS 45/4.1)

18 Sec. 4.1. Administrative paternity determinations.

19 (a) Notwithstanding any other provision of this Act, the  
20 Department of Healthcare and Family Services may make  
21 administrative determinations of paternity and nonpaternity in  
22 accordance with Section 10-17.7 of the Illinois Public Aid  
23 Code. These determinations of paternity or nonpaternity shall  
24 have the full force and effect of judgments entered under this

1 Act.

2 (b) An administrative determination of paternity that is  
3 not based on a voluntary acknowledgment of paternity made in  
4 accordance with Section 10-17.7 of the Illinois Public Aid Code  
5 may be challenged in court on the basis of fraud, duress, or  
6 material mistake of fact, with the burden of proof upon the  
7 challenging party. Pending the outcome of the challenge to the  
8 administrative determination of paternity, the legal  
9 responsibilities of the parties shall remain in full force and  
10 effect, except upon order of the court upon a showing of good  
11 cause. A party challenging an administrative determination of  
12 paternity made in accordance with Section 10-17.7 of the  
13 Illinois Public Aid Code must consent to and submit to  
14 deoxyribonucleic acid (DNA) testing, in accordance with  
15 Department of Healthcare and Family Services rules, in order to  
16 challenge an administrative determination of paternity.

17 (c) For purposes of subsection (b), evidence that, based on  
18 deoxyribonucleic acid (DNA) testing, the man who has been found  
19 to be the father of a child under an administrative  
20 determination of paternity is not the natural father of the  
21 child constitutes a material mistake of fact.

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

23 (750 ILCS 45/8) (from Ch. 40, par. 2508)

24 Sec. 8. Statute of limitations.

25 (a) (1) An action brought by or on behalf of a child, an

1 action brought by a party alleging that he or she is the  
2 child's natural parent, or an action brought by the  
3 Department of Healthcare and Family Services (formerly  
4 Illinois Department of Public Aid), if it is providing or  
5 has provided financial support to the child or if it is  
6 assisting with child support collection services, shall be  
7 barred if brought later than 2 years after the child  
8 reaches the age of majority; however, if the action on  
9 behalf of the child is brought by a public agency, other  
10 than the Department of Healthcare and Family Services  
11 (formerly Illinois Department of Public Aid) if it is  
12 providing or has provided financial support to the child or  
13 if it is assisting with child support collection services,  
14 it shall be barred 2 years after the agency has ceased to  
15 provide assistance to the child.

16 (2) Failure to bring an action within 2 years shall not  
17 bar any party from asserting a defense in any action to  
18 declare the non-existence of the parent and child  
19 relationship.

20 (3) An action to declare the non-existence of the  
21 parent and child relationship brought under subsection (b)  
22 of Section 7 of this Act shall be barred if brought later  
23 than 2 years after the petitioner obtains knowledge of  
24 relevant facts. The 2-year period for bringing an action to  
25 declare the nonexistence of the parent and child  
26 relationship shall not extend beyond the date on which the

1 child reaches the age of 18 years. Failure to bring an  
2 action within 2 years shall not bar any party from  
3 asserting a defense in any action to declare the existence  
4 of the parent and child relationship.

5 (4) An action to declare the non-existence of the  
6 parent and child relationship brought under subsection  
7 (b-5) of Section 7 of this Act shall be barred if brought  
8 more than 6 months after the effective date of this  
9 amendatory Act of 1998 or more than 2 years after the  
10 petitioner obtains actual knowledge of relevant facts,  
11 whichever is later. The 2-year period shall not apply to  
12 periods of time where the natural mother or the child  
13 refuses to submit to deoxyribonucleic acid (DNA) tests. The  
14 2-year period for bringing an action to declare the  
15 nonexistence of the parent and child relationship shall not  
16 extend beyond the date on which the child reaches the age  
17 of 18 years. Failure to bring an action within 2 years  
18 shall not bar any party from asserting a defense in any  
19 action to declare the existence of the parent and child  
20 relationship.

21 (5) An action under subsection (b) of Section 4.1 of  
22 this Act to challenge an administrative determination of  
23 paternity shall be barred if brought more than 6 months  
24 after the effective date of this amendatory Act of the 98th  
25 General Assembly or more than 2 years after the petitioner  
26 obtains actual knowledge of relevant facts, whichever is

1       later. The 2-year period shall not apply to periods of time  
2       during which the natural mother or the child refuses to  
3       submit to deoxyribonucleic acid (DNA) tests. The 2-year  
4       period for bringing an action under subsection (b) of  
5       Section 4.1 of this Act to challenge an administrative  
6       determination of paternity shall not extend beyond the date  
7       on which the child reaches the age of 18 years. Failure to  
8       bring an action within 2 years shall not bar any party from  
9       asserting a defense in any action to declare the existence  
10      of the parent and child relationship.

11       (b) The time during which any party is not subject to  
12      service of process or is otherwise not subject to the  
13      jurisdiction of the courts of this State shall toll the  
14      aforementioned periods.

15       (c) This Act does not affect the time within which any  
16      rights under the Probate Act of 1975 may be asserted beyond the  
17      time provided by law relating to distribution and closing of  
18      decedent's estates or to the determination of heirship, or  
19      otherwise.

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

21       Section 99. Effective date. This Act takes effect upon  
22      becoming law.