

AN ACT

To amend sections 3111.13 and 3111.37 and to enact section 3113.2111 of the Revised Code to require a court to grant relief from a final judgment, order, or administrative determination that determines paternity or requires the payment of child support and to prohibit an award of arrearages for child support for the failure to support a child prior to the date the court issues an order requiring a parent to pay current support of a child if the parent had no knowledge of his alleged paternity of the child and the child is three years of age or older.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3111.13 and 3111.37 be amended and section 3113.2111 of the Revised Code be enacted to read as follows:

Sec. 3111.13. (A) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(B) If the judgment or order of the court is at variance with the child's birth record, the court may order that a new birth record be issued under section 3111.18 of the Revised Code.

(C) ~~The~~ Except as otherwise provided in this section, the judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment or order shall direct the father to pay all or any part of the reasonable expenses of the mother's pregnancy and confinement. After entry of the judgment or order, the father may petition that he be designated the residential parent and legal custodian of the child or for visitation rights in a proceeding separate from any action to establish paternity. Additionally, if the mother is unmarried, the father, the parents of the father, any relative of the father, the parents of the mother, and any

lative of the mother may file a complaint pursuant to section 3109.12 of the Revised Code requesting the granting under that section of reasonable companionship or visitation rights with respect to the child.

The judgment or order shall contain any provision required by section 3111.14 of the Revised Code.

(D) Support judgments or orders ordinarily shall be for periodic payments that may vary in amount. In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support.

(E) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall comply with sections 3113.21 to 3113.219 of the Revised Code.

(F)(1) Each order for child support made or modified under this section shall include as part of the order a general provision, as described in division (A)(1) of section 3113.21 of the Revised Code, requiring the withholding or deduction of income or assets of the obligor under the order as described in division (D) or (H) of section 3113.21 of the Revised Code, or another type of appropriate requirement as described in division (D)(3), (D)(4), or (H) of that section, to ensure that withholding or deduction from the income or assets of the obligor is available from the commencement of the support order for collection of the support and of any arrearages that occur; a statement requiring all parties to the order to notify the child support enforcement agency in writing of their current mailing address, current residence address, current residence telephone number, current driver's license number, and any changes to that information; and a notice that the requirement to notify the agency of all changes to that information continues until further notice from the court. Any court that makes or modifies an order for child support under this section shall comply with sections 3113.21 to 3113.219 of the Revised Code. If any person required to pay child support under an order made under this section on or after April 15, 1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the court that makes the finding, in addition to any other penalty or remedy imposed, shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the court, that arose in relation to the act of contempt.

(2) Notwithstanding section 3109.01 of the Revised Code, if a court issues a child support order under this section, the order shall remain in

effect beyond the child's eighteenth birthday as long as the child continuously attends on a full-time basis any recognized and accredited high school or the order provides that the duty of support of the child continues beyond the child's eighteenth birthday. Except in cases in which the order provides that the duty of support continues for any period after the child reaches nineteen years of age, the order shall not remain in effect after the child reaches age nineteen. Any parent ordered to pay support under a child support order issued under this section shall continue to pay support under the order, including during seasonal vacation periods, until the order terminates.

(3) When a court determines whether to require a parent to pay an amount for that parent's failure to support a child prior to the date the court issues an order requiring that parent to pay an amount for the current support of that child, it shall consider all relevant factors, including, but not limited to, any monetary contribution either parent of the child made to the support of the child prior to the court issuing the order requiring the parent to pay an amount for the current support of the child.

(4)(a) A court shall not require a parent to pay an amount for that parent's failure to support a child prior to the date the court issues an order requiring that parent to pay an amount for the current support of that child or to pay all or any part of the reasonable expenses of the mother's pregnancy and confinement, if both of the following apply:

(i) At the time of the initial filing of an action to determine the existence of the parent and child relationship with respect to that parent, the child was over three years of age.

(ii) Prior to the initial filing of an action to determine the existence of the parent and child relationship with respect to that parent, the alleged father had no knowledge and had no reason to have knowledge of his alleged paternity of the child.

(b) For purposes of division (F)(4)(a)(ii) of this section, the mother of the child may establish that the alleged father had or should have had knowledge of the paternity of the child by showing, by a preponderance of the evidence, that she performed a reasonable and documented effort to contact and notify the alleged father of his paternity of the child.

(c) A party is entitled to obtain modification of an existing order for arrearages under this division regardless of whether the judgment, court order, or administrative support order from which relief is sought was issued prior to, on, or after the effective date of this amendment.

(G) As used in this section, "birth record" has the same meaning as in section 3705.01 of the Revised Code.

(H) Unless the court has reason to believe that a person named in the order is a potential victim of domestic violence, any order issued pursuant to this section finding the existence of a parent and child relationship shall contain the full names, addresses, and social security numbers of the mother and father of the child and the full name and address of the child.

Sec. 3111.37. (A) If a married woman is the subject of a non-spousal artificial insemination and if her husband consented to the artificial insemination, the husband shall be treated in law and regarded as the natural father of a child conceived as a result of the artificial insemination, and a child so conceived shall be treated in law and regarded as the natural child of the husband. A presumption that arises under division (A)(1) or (2) of section 3111.03 of the Revised Code is conclusive with respect to this father and child relationship, and no action or proceeding under sections 3111.01 to 3111.19 or section 3111.22 or 3113.2111 of the Revised Code shall affect the relationship.

(B) If a woman is the subject of a non-spousal artificial insemination, the donor shall not be treated in law or regarded as the natural father of a child conceived as a result of the artificial insemination, and a child so conceived shall not be treated in law or regarded as the natural child of the donor. No action or proceeding under sections 3111.01 to 3111.19 or section 3111.22 of the Revised Code shall affect these consequences.

Sec. 3113.2111. (A)(1) NOTWITHSTANDING THE PROVISIONS TO THE CONTRARY IN CIVIL RULE 60(B) AND IN ACCORDANCE WITH THIS SECTION, A PERSON MAY FILE A MOTION FOR RELIEF FROM A FINAL JUDGMENT, court ORDER, OR ADMINISTRATIVE DETERMINATION or order THAT DETERMINES THAT THE PERSON OR a MALE MINOR referred to in division (B) of section 3109.19 of the Revised Code IS THE FATHER OF a CHILD OR THAT REQUIRES THE PERSON OR MALE MINOR TO PAY CHILD SUPPORT. The person SHALL FILE the motion IN THE COURT OF COMMON PLEAS OF THE COUNTY IN WHICH THE ORIGINAL JUDGMENT, court ORDER, OR ADMINISTRATIVE determination or order WAS MADE.

(2) UPON the MOTION OF ANY adverse PARTY OR UPON ITS OWN MOTION, THE COURT in which an action is brought under this section MAY TRANSFER the ACTION TO THE COUNTY IN WHICH an adverse party RESIDES WHEN IT APPEARS to the court THAT THE LOCATION OF THE ORIGINAL VENUE presents a hardship for that adverse party.

(B)(1) Upon the filing of a motion for relief under division (A)(1) of this

section. A COURT SHALL GRANT RELIEF FROM A FINAL JUDGMENT, court ORDER, OR ADMINISTRATIVE DETERMINATION or order THAT DETERMINES THAT A PERSON OR MALE MINOR IS THE FATHER OF a CHILD OR THAT REQUIRES a PERSON OR MALE MINOR TO PAY CHILD SUPPORT for a child IF ALL OF THE FOLLOWING APPLY:

(a) THE COURT RECEIVES GENETIC TEST RESULTS FROM A GENETIC TEST ADMINISTERED NO MORE THAN SIX MONTHS PRIOR TO THE FILING OF THE MOTION FOR RELIEF THAT FINDS THAT THERE IS A ZERO PER CENT PROBABILITY THAT THE PERSON OR MALE MINOR IS THE FATHER OF THE CHILD.

(b) THE PERSON OR MALE MINOR HAS NOT ADOPTED THE CHILD.

(c) THE CHILD WAS NOT CONCEIVED AS A RESULT OF ARTIFICIAL INSEMINATION IN COMPLIANCE WITH SECTIONS 3111.30 TO 3111.38 OF THE REVISED CODE.

(2) A COURT SHALL NOT DENY RELIEF FROM A FINAL JUDGMENT, court ORDER, OR ADMINISTRATIVE DETERMINATION or order THAT DETERMINES THAT A PERSON OR MALE MINOR IS THE FATHER OF a CHILD OR THAT REQUIRES a PERSON OR MALE MINOR TO PAY CHILD SUPPORT for a child solely because of the occurrence of any of the following acts IF THE PERSON OR MALE MINOR at the time of or prior to the occurrence of that act DID NOT KNOW THAT HE WAS NOT THE NATURAL FATHER OF THE CHILD:

(a) THE PERSON OR MALE MINOR MARRIED THE MOTHER OF THE CHILD.

(b) THE PERSON OR MALE MINOR ACKNOWLEDGED HIS PATERNITY OF THE CHILD IN A WRITING SWORN TO BEFORE A NOTARY PUBLIC.

(c) THE PERSON OR MALE MINOR WAS NAMED AS THE CHILD'S NATURAL FATHER ON THE CHILD'S BIRTH CERTIFICATE WITH THE VALID CONSENT OF THE PERSON OR MALE MINOR.

(d) THE PERSON OR MALE MINOR WAS REQUIRED TO SUPPORT THE CHILD because of A WRITTEN VOLUNTARY PROMISE or by A COURT ORDER OR AN ADMINISTRATIVE SUPPORT ORDER.

(e) THE PERSON OR MALE MINOR VALIDLY SIGNED THE CHILD'S BIRTH CERTIFICATE AS AN INFORMANT AS PROVIDED

IN SECTION 3705.09 OF THE REVISED CODE AS THAT SECTION EXISTED PRIOR TO JANUARY 1, 1998.

(f) THE PERSON OR MALE MINOR WAS NAMED IN AN ACKNOWLEDGMENT OF PATERNITY OF THE CHILD THAT A COURT ENTERED UPON ITS JOURNAL PURSUANT TO FORMER SECTION 2105.18 OF THE REVISED CODE.

(g) THE PERSON OR MALE MINOR WAS NAMED IN AN ACKNOWLEDGMENT OF PATERNITY OF THE CHILD THAT HAS BECOME FINAL UNDER SECTION 2151.232, 3111.211, OR 5101.314 OF THE REVISED CODE.

(h) THE PERSON OR MALE MINOR WAS PRESUMED TO BE THE NATURAL FATHER OF THE CHILD UNDER ANY OF THE CIRCUMSTANCES LISTED IN SECTION 3111.03 OF THE REVISED CODE.

(i) The person or male minor was determined to be the father of the child in a parentage action under Chapter 3111. of the Revised Code.

(j) THE PERSON OR MALE MINOR OTHERWISE ADMITTED OR ACKNOWLEDGED HIMSELF TO BE THE CHILD'S NATURAL FATHER.

(C) A COURT SHALL NOT GRANT RELIEF FROM A FINAL JUDGMENT, court ORDER, OR ADMINISTRATIVE DETERMINATION or order THAT DETERMINES THAT A PERSON OR MALE MINOR IS THE FATHER OF a CHILD OR THAT REQUIRES a PERSON OR MALE MINOR TO PAY CHILD SUPPORT for a child IF THE COURT DETERMINES, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE PERSON OR MALE MINOR KNEW THAT HE WAS NOT THE NATURAL FATHER OF THE CHILD BEFORE ANY OF THE FOLLOWING:

(1) Any act listed in divisions (B)(2)(a) to (g) of this section occurred.

(2) The person or male minor was presumed to be the natural father of the child under any of the circumstances listed in divisions (A)(1) to (4) of section 3111.03 of the Revised Code.

(3) The person or male minor otherwise admitted or acknowledged himself to be the child's father.

(D)(1) IN ANY ACTION FOR RELIEF INSTITUTED UNDER THIS SECTION, IF THE GENETIC TEST RESULTS SUBMITTED IN CONNECTION WITH THE MOTION FOR RELIEF ARE SOLELY PROVIDED BY THE MOVING PARTY, THE COURT, UPON ITS OWN MOTION, MAY ORDER AND, UPON THE MOTION OF ANY PARTY TO THE ACTION, SHALL ORDER THE CHILD'S MOTHER, THE

CHILD, AND THE ALLEGED FATHER TO SUBMIT TO GENETIC TESTS. THE CLERK OF THE COURT SHALL SCHEDULE THE GENETIC TESTING NO LATER THAN THIRTY DAYS AFTER THE COURT ISSUES ITS ORDER.

(2) IF THE MOTHER IS THE CUSTODIAN OF THE CHILD AND WILLFULLY FAILS TO SUBMIT THE CHILD TO GENETIC TESTING, IF THE ALLEGED FATHER OF THE CHILD WILLFULLY FAILS TO SUBMIT HIMSELF TO GENETIC TESTING, OR IF THE ALLEGED FATHER IS THE CUSTODIAN OF THE CHILD AND WILLFULLY FAILS TO SUBMIT THE CHILD TO GENETIC TESTING, THE COURT SHALL ISSUE AN ORDER DETERMINING THE MOTION FOR RELIEF AGAINST THE PARTY FAILING TO SUBMIT the party or the child TO THE GENETIC TESTING. IF A PARTY SHOWS GOOD CAUSE FOR FAILING TO SUBMIT TO GENETIC TESTING OR FOR FAILING TO SUBMIT THE CHILD TO GENETIC TESTING, THE COURT SHALL NOT CONSIDER THE FAILURE TO BE WILLFUL.

(3) The party requesting the genetic tests shall pay ANY FEES CHARGED FOR THE TESTS, UNLESS THE CUSTODIAN OF THE CHILD IS REPRESENTED BY THE CHILD SUPPORT ENFORCEMENT AGENCY IN ITS ROLE AS THE AGENCY PROVIDING ENFORCEMENT OF CHILD SUPPORT ORDERS, IN WHICH CASE THE CHILD SUPPORT ENFORCEMENT AGENCY SHALL PAY THE COSTS OF GENETIC TESTING IF IT REQUESTS the tests. THE CHILD SUPPORT ENFORCEMENT AGENCY OR THE PERSON WHO PAID THE FEES CHARGED FOR THE GENETIC TESTING MAY SEEK REIMBURSEMENT FOR THE FEES FROM THE PERSON AGAINST WHOM THE COURT ASSESSES THE COSTS OF THE ACTION.

(4) THE GENETIC TESTS SHALL BE MADE BY QUALIFIED EXAMINERS WHO ARE AUTHORIZED BY THE COURT OR THE DEPARTMENT OF JOB AND FAMILY SERVICES OR BY A GENETIC TESTING LABORATORY ACCREDITED BY THE AMERICAN ASSOCIATION OF BLOOD BANKS. AN EXAMINER CONDUCTING A GENETIC TEST, UPON THE COMPLETION OF THE TEST, SHALL SEND A COMPLETE REPORT OF THE TEST RESULTS TO THE CLERK OF THE COURT THAT ORDERED THE TEST.

(E) If a court grants a motion that relieves a person or male minor from a final judgment, court order, or administrative determination or order under this section, the granting of the motion does not preclude any person from filing, subsequent to the granting of the motion, an action under Chapter

3111. of the Revised Code to establish a parent-child relationship between the person or male minor who was granted relief and the child who is the subject of the judgment, court order, or administrative determination or order from which relief was granted. A person shall not file more than one action of that type under Chapter 3111. of the Revised Code in any two-year period regarding the person or male minor who was granted relief and the child. A court, pursuant to a motion filed under this division and in accordance with Chapter 3111. of the Revised Code, may enter a judgment in the action that determines the existence of a parent-child relationship between the person or male minor granted relief and the child only if genetic tests taken subsequent to the granting of the motion for relief indicate that there is a statistical probability that the party or the male minor is the natural father of the child. If a person files an action under Chapter 3111. of the Revised Code as described in this division and the court determines that no parent-child relationship exists between the person or the male minor and the child, the court shall require the person who filed the action to pay all court costs of the action and the reasonable attorney's fees of the opposing party.

(E) If a court grants relief from a judgment, court order, or administrative determination or order pursuant to this section and the person who is relieved from the judgment, order, or determination, the male minor, or any relative of the person or male minor has been granted companionship or visitation rights with the child pursuant to an order issued under section 3109.051 or 3109.12 of the Revised Code, the court shall determine whether the order granting those rights should be terminated, modified, or continued.

(G) If a court grants relief from a judgment, court order, or administrative order for the payment of child support pursuant to this section and child support arrearages are owed, the court may issue an order canceling that arrearage. Nothing in this section limits any actions that may be taken by the person or male minor granted relief under this section to recover child support paid under the judgment or order from which relief was granted.

(H) IF RELIEF FROM A JUDGMENT, court ORDER, OR administrative order FOR THE PAYMENT OF CHILD SUPPORT IS NOT GRANTED PURSUANT TO THIS SECTION, THE COURT SHALL REQUIRE THE PERSON WHO FILED THE motion for relief TO PAY ALL COURT COSTS OF THE ACTION AND THE REASONABLE ATTORNEY'S FEES OF THE OPPOSING PARTY.

(I) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PARTY IS ENTITLED TO OBTAIN RELIEF UNDER THIS SECTION

REGARDLESS OF WHETHER THE FINAL JUDGMENT, court ORDER, OR ADMINISTRATIVE DETERMINATION or order FROM WHICH RELIEF IS SOUGHT WAS ISSUED PRIOR TO, ON, OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

(J) AS USED IN THIS SECTION:

(1) "CHILD SUPPORT" MEANS SUPPORT FOR A CHILD THAT IS INCLUDED IN A SUPPORT ORDER ISSUED OR MODIFIED PRIOR TO, ON, OR AFTER THE EFFECTIVE DATE OF THIS SECTION, UNDER FORMER SECTION 3111.21 OR SECTION 2151.23, 2151.33, 2151.36, 2151.49, 3105.21, 3109.05, 3109.19, 3111.13, 3111.20, 3111.22, 3111.27, 3113.04, 3113.07, 3113.216, OR 3113.31 OF THE REVISED CODE.

(2) "GENETIC TESTS" AND "GENETIC TESTING" HAVE THE SAME MEANINGS AS IN SECTION 3111.09 OF THE REVISED CODE.

SECTION 2. That existing sections 3111.13 and 3111.37 of the Revised Code are hereby repealed.

SECTION 3. The General Assembly hereby declares that it is a person's or male minor's substantive right to obtain relief from a final judgment, court order, or administrative determination or order that determines that the person or male minor is the father of a child or that requires the person or male minor to pay child support for a child. The person or male minor may obtain relief from a final judgment, court order, or administrative determination or order only if relief is granted based on genetic evidence that the person or male minor is not the father of the child who is the subject of the judgment, order, or determination.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____