

AN ACT

To amend sections 3111.04, 3111.06, 3111.07, 3111.381, and 3123.171 and to enact section 3109.043 of the Revised Code relative to paternity actions and interest on child support arrearages, to allow a child support enforcement agency to bring an action relative to the determination of a parent and child relationship if the child's father or alleged father receives public assistance or services under Title IV-D of the "Social Security Act," and to allow a court to make a temporary custody determination before a parent and child relationship has been legally established.

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

SECTION 1. That sections 3111.04, 3111.06, 3111.07, 3111.381, and 3123.171 be amended and section 3109.043 of the Revised Code be enacted to read as follows:

Sec. 3109.043. In any proceeding pertaining to the allocation of parental rights and responsibilities for the care of a child, when requested in the complaint, answer, or counterclaim, or by motion served with the pleading, upon satisfactory proof by affidavit duly filed with the clerk of the court, the court, without oral hearing and for good cause shown, may make a temporary order regarding the allocation of parental rights and responsibilities for the care of the child while the action is pending.

If a parent and child relationship has not already been established pursuant to section 3111.02 of the Revised Code, the court may take into consideration when determining whether to award parenting time, visitation rights, or temporary custody to a putative father that the putative father is named on the birth record of the child, the child has the putative father's surname, or a clear pattern of a parent and child relationship between the child and the putative father exists.

Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's

personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother, father, or alleged father is a recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the alleged father's personal representative.

(B) An agreement does not bar an action under this section.

(C) If an action under this section is brought before the birth of the child and if the action is contested, all proceedings, except service of process and the taking of depositions to perpetuate testimony, may be stayed until after the birth.

(D) A recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall cooperate with the child support enforcement agency of the county in which a child resides to obtain an administrative determination pursuant to sections 3111.38 to 3111.54 of the Revised Code, or, if necessary, a court determination pursuant to sections 3111.01 to 3111.18 of the Revised Code, of the existence or nonexistence of a parent and child relationship between the father and the child. If the recipient fails to cooperate, the agency may commence an action to determine the existence or nonexistence of a parent and child relationship between the father and the child pursuant to sections 3111.01 to 3111.18 of the Revised Code.

(E) As used in this section, "public assistance" means medical assistance under Chapter 5111. of the Revised Code, assistance under Chapter 5107. of the Revised Code, disability financial assistance under Chapter 5115. of the Revised Code, or disability medical assistance under Chapter 5115. of the Revised Code.

Sec. 3111.06. (A) ~~An~~ Except as otherwise provided in division (B) or (C) of section 3111.381 of the Revised Code, an action authorized under sections 3111.01 to 3111.18 of the Revised Code may be brought in the juvenile court or other court with jurisdiction under section 2101.022 or 2301.03 of the Revised Code of the county in which the child, the child's mother, or the alleged father resides or is found or, if the alleged father is deceased, of the county in which proceedings for the probate of the alleged father's estate have been or can be commenced, or of the county in which the child is being provided support by the county department of job and family services of that county. An action pursuant to sections 3111.01 to 3111.18 of the Revised Code to object to an administrative order issued pursuant to former section 3111.21 or 3111.22 or sections 3111.38 to 3111.54 of the Revised Code determining the existence or nonexistence of a

parent and child relationship that has not become final and enforceable, may be brought only in the juvenile court or other court with jurisdiction of the county in which the child support enforcement agency that issued the order is located. If an action for divorce, dissolution, or legal separation has been filed in a court of common pleas, that court of common pleas has original jurisdiction to determine if the parent and child relationship exists between one or both of the parties and any child alleged or presumed to be the child of one or both of the parties.

(B) A person who has sexual intercourse in this state submits to the jurisdiction of the courts of this state as to an action brought under sections 3111.01 to 3111.18 of the Revised Code with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by the Rules of Civil Procedure, personal jurisdiction may be acquired by personal service of summons outside this state or by certified mail with proof of actual receipt.

Sec. 3111.07. (A) The natural mother, each man presumed to be the father under section 3111.03 of the Revised Code, and each man alleged to be the natural father, ~~and, if the party who initiates the action is a recipient of public assistance as defined in section 3111.04 of the Revised Code or if the responsibility for the collection of support for the child who is the subject of the action has been assumed by the child support enforcement agency under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, the child support enforcement agency of the county in which the child resides shall be made parties to the action brought pursuant to sections 3111.01 to 3111.18 of the Revised Code or, if not subject to the jurisdiction of the court, shall be given notice of the action pursuant to the Rules of Civil Procedure and shall be given an opportunity to be heard. The child support enforcement agency of the county in which the action is brought also shall be given notice of the action pursuant to the Rules of Civil Procedure and shall be given an opportunity to be heard. The court may align the parties. The child shall be made a party to the action unless a party shows good cause for not doing so. Separate counsel shall be appointed for the child if the court finds that the child's interests conflict with those of the mother.~~

If the person bringing the action knows that a particular man is not or, based upon the facts and circumstances present, could not be the natural father of the child, the person bringing the action shall not allege in the action that the man is the natural father of the child and shall not make the man a party to the action.

(B) If an action is brought pursuant to sections 3111.01 to 3111.18 of

the Revised Code and the child to whom the action pertains is or was being provided support by the department of job and family services, a county department of job and family services, or another public agency, the department, county department, or agency may intervene for purposes of collecting or recovering the support.

Sec. 3111.381. (A) Except as provided in ~~division~~ divisions (B), (C), (D), and (E) of this section, no person may bring an action under sections 3111.01 to 3111.18 of the Revised Code unless the person has requested an administrative determination under section 3111.38 of the Revised Code of the existence or nonexistence of a parent and child relationship.

(B) An action to determine the existence or nonexistence of a parent and child relationship may be brought by the child's mother in the appropriate division of the court of common pleas in the county in which the child resides, without requesting an administrative determination, if the child's mother brings the action in order to request an order to determine the allocation of parental rights and responsibilities, the payment of all or any part of the reasonable expenses of the mother's pregnancy and confinement, or support of the child. The clerk of the court shall forward a copy of the complaint to the child support enforcement agency of the county in which the complaint is filed.

(C) An action to determine the existence or nonexistence of a parent and child relationship may be brought by the putative father of the child in the appropriate division of the court of common pleas in the county in which the child resides, without requesting an administrative determination, if the putative father brings the action in order to request an order to determine the allocation of parental rights and responsibilities. The clerk of the court shall forward a copy of the complaint to the child support enforcement agency of the county in which the complaint is filed.

(D) If services are requested by the court, under divisions (B) and (C) of this section, of the child support enforcement agency to determine the existence or nonexistence of a parent and child relationship, a Title IV-D application must be completed and delivered to the child support enforcement agency.

(E) If the alleged father of a child is deceased and proceedings for the probate of the estate of the alleged father have been or can be commenced, the court with jurisdiction over the probate proceedings shall retain jurisdiction to determine the existence or nonexistence of a parent and child relationship between the alleged father and any child without an administrative determination being requested from a child support enforcement agency.

If an action for divorce, dissolution of marriage, or legal separation, or an action under section 2151.231 or 2151.232 of the Revised Code requesting an order requiring the payment of child support and provision for the health care of a child, has been filed in a court of common pleas and a question as to the existence or nonexistence of a parent and child relationship arises, the court in which the original action was filed shall retain jurisdiction to determine the existence or nonexistence of the parent and child relationship without an administrative determination being requested from a child support enforcement agency.

If a juvenile court or other court with jurisdiction under section 2101.022 or 2301.03 of the Revised Code issues a support order under section 2151.231 or 2151.232 of the Revised Code relying on a presumption under section 3111.03 of the Revised Code, the juvenile court or other court with jurisdiction that issued the support order shall retain jurisdiction if a question as to the existence of a parent and child relationship arises.

~~Sec. 3123.171. Notwithstanding section 1343.03 of the Revised Code, interest may be charged on the amount of support arrearages owed pursuant to a default under a child support order only as provided by~~ When a court renders a money judgment for child support, pursuant to a motion for a lump sum judgment filed by an obligee, interest shall accrue on that arrearage unless the court finds that it would be inequitable to assess interest. The interest shall accrue from the date the judgment is rendered to a date certain set for payment of the judgment at a rate specified in section 1343.03 of the Revised Code at the time the judgment is rendered. A court may assess interest on a child support arrearage prior to judgment pursuant to section 3123.17 of the Revised Code. The court shall enter the amount due, including interest, in the journal. If interest is not assessed, the court shall enter the reasons for not assessing interest in the journal.

Sub. H. B. No. 136

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SECTION 2. That existing sections 3111.04, 3111.06, 3111.07, 3111.381, and 3123.171 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 136

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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 _____