

As Introduced

**130th General Assembly
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H. B. No. 257

Representatives Antonio, Schuring

**Cosponsors: Representatives Cera, Rogers, Driehaus, Becker, Smith,
Stebelton, Strahorn, Maag, Barborak, Buchy, Phillips, Foley, Hagan, R.,
Sheehy, Brown, Brenner, Reece, Fedor, Ramos, Budish, Grossman**

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A B I L L

To amend sections 2105.06 and 3107.07 and to enact 1
sections 2105.062, 3109.50, 3109.501, 3109.502, 2
3109.503, 3109.504, 3109.505, 3109.506, and 3
3109.507 of the Revised Code regarding the 4
parental rights of a father who was convicted of 5
or pleaded guilty to, or alleged to have 6
committed, rape or sexual battery. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2105.06 and 3107.07 be amended and 8
sections 2105.062, 3109.50, 3109.501, 3109.502, 3109.503, 9
3109.504, 3109.505, 3109.506, and 3109.507 of the Revised Code be 10
enacted to read as follows: 11

Sec. 2105.06. When a person dies intestate having title or 12
right to any personal property, or to any real property or 13
inheritance, in this state, the personal property shall be 14
distributed, and the real property or inheritance shall descend 15
and pass in parcenary, except as otherwise provided by law, in the 16
following course: 17

(A) If there is no surviving spouse, to the children of the 18
intestate or their lineal descendants, per stirpes; 19

(B) If there is a spouse and one or more children of the 20
decedent or their lineal descendants surviving, and all of the 21
decedent's children who survive or have lineal descendants 22
surviving also are children of the surviving spouse, then the 23
whole to the surviving spouse; 24

(C) If there is a spouse and one child of the decedent or the 25
child's lineal descendants surviving and the surviving spouse is 26
not the natural or adoptive parent of the decedent's child, the 27
first twenty thousand dollars plus one-half of the balance of the 28
intestate estate to the spouse and the remainder to the child or 29
the child's lineal descendants, per stirpes; 30

(D) If there is a spouse and more than one child or their 31
lineal descendants surviving, the first sixty thousand dollars if 32
the spouse is the natural or adoptive parent of one, but not all, 33
of the children, or the first twenty thousand dollars if the 34
spouse is the natural or adoptive parent of none of the children, 35
plus one-third of the balance of the intestate estate to the 36
spouse and the remainder to the children equally, or to the lineal 37
descendants of any deceased child, per stirpes; 38

(E) If there are no children or their lineal descendants, 39
then the whole to the surviving spouse; 40

(F) ~~If~~ Except as provided in section 2105.062 of the Revised 41
Code, if there is no spouse and no children or their lineal 42
descendants, to the parents of the intestate equally, or to the 43
surviving parent; 44

(G) ~~If~~ Except as provided in section 2105.062 of the Revised 45
Code, if there is no spouse, no children or their lineal 46
descendants, and no parent surviving, to the brothers and sisters, 47
whether of the whole or of the half blood of the intestate, or 48

their lineal descendants, per stirpes; 49

(H) ~~If~~ Except as provided in section 2105.062 of the Revised 50
Code, if there are no brothers or sisters or their lineal 51
descendants, one-half to the paternal grandparents of the 52
intestate equally, or to the survivor of them, and one-half to the 53
maternal grandparents of the intestate equally, or to the survivor 54
of them; 55

(I) ~~If~~ Except as provided in section 2105.062 of the Revised 56
Code, if there is no paternal grandparent or no maternal 57
grandparent, one-half to the lineal descendants of the deceased 58
grandparents, per stirpes; if there are no such lineal 59
descendants, then to the surviving grandparents or their lineal 60
descendants, per stirpes; if there are no surviving grandparents 61
or their lineal descendants, then to the next of kin of the 62
intestate, provided there shall be no representation among the 63
next of kin; 64

(J) If there are no next of kin, to stepchildren or their 65
lineal descendants, per stirpes; 66

(K) If there are no stepchildren or their lineal descendants, 67
escheat to the state. 68

Sec. 2105.062. As used in this section, "relative" includes a 69
parent, grandparent, great-grandparent, stepparent, child, 70
grandchild, aunt, uncle, cousin, sibling, and half sibling. 71

The father declared to be the parent of a child conceived as 72
a result of rape or sexual battery pursuant to section 3109.501 of 73
the Revised Code, or a relative of the father, shall not inherit 74
the real property, personal property, or inheritance of the child 75
or the child's lineal descendants as provided under section 76
2105.06 of the Revised Code. 77

Sec. 3107.07. Consent to adoption is not required of any of 78

the following:	79
(A) A parent of a minor, when it is alleged in the adoption petition and the court, after proper service of notice and hearing, finds by clear and convincing evidence that the parent has failed without justifiable cause to provide more than de minimis contact with the minor or to provide for the maintenance and support of the minor as required by law or judicial decree for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner.	80 81 82 83 84 85 86 87 88
(B) The putative father of a minor if either of the following applies:	89 90
(1) The putative father fails to register as the minor's putative father with the putative father registry established under section 3107.062 of the Revised Code not later than thirty days after the minor's birth;	91 92 93 94
(2) The court finds, after proper service of notice and hearing, that any of the following are the case:	95 96
(a) The putative father is not the father of the minor;	97
(b) The putative father has willfully abandoned or failed to care for and support the minor;	98 99
(c) The putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of the petitioner, whichever occurs first.	100 101 102 103
(C) Except as provided in section 3107.071 of the Revised Code, a parent who has entered into a voluntary permanent custody surrender agreement under division (B) of section 5103.15 of the Revised Code;	104 105 106 107
(D) A parent whose parental rights have been terminated by	108

order of a juvenile court under Chapter 2151. of the Revised Code;	109
(E) A parent who is married to the petitioner and supports the adoption;	110 111
(F) The father, or putative father, of a minor if the minor is conceived as the result of the commission of rape by the father or putative father and the father or putative father is convicted of or pleads guilty to the commission of that offense. As used in this division, "rape" means a violation of section 2907.02 of the Revised Code or a similar law of another state.	112 113 114 115 116 117
(G) A legal guardian or guardian ad litem of a parent judicially declared incompetent in a separate court proceeding who has failed to respond in writing to a request for consent, for a period of thirty days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably;	118 119 120 121 122 123
(H) Any legal guardian or lawful custodian of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent, for a period of thirty days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably;	124 125 126 127 128 129
(I) The spouse of the person to be adopted, if the failure of the spouse to consent to the adoption is found by the court to be by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances that make it impossible or unreasonably difficult to obtain the consent or refusal of the spouse;	130 131 132 133 134 135
(J) Any parent, legal guardian, or other lawful custodian in a foreign country, if the person to be adopted has been released for adoption pursuant to the laws of the country in which the person resides and the release of such person is in a form that	136 137 138 139

satisfies the requirements of the immigration and naturalization 140
service of the United States department of justice for purposes of 141
immigration to the United States pursuant to section 101(b)(1)(F) 142
of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 143
U.S.C. 1101(b)(1)(F), as amended or reenacted. 144

(K) Except as provided in divisions (G) and (H) of this 145
section, a juvenile court, agency, or person given notice of the 146
petition pursuant to division (A)(1) of section 3107.11 of the 147
Revised Code that fails to file an objection to the petition 148
within fourteen days after proof is filed pursuant to division (B) 149
of that section that the notice was given; 150

(L) Any guardian, custodian, or other party who has temporary 151
custody of the child; 152

(M) The father of a minor declared, with respect to the 153
minor, to be the parent of a child conceived as a result of rape 154
or sexual battery pursuant to an action brought under section 155
3109.501 of the Revised Code. 156

Sec. 3109.50. As used in sections 3109.501 to 3109.507 of the 157
Revised Code: 158

(A) "Parental rights" means parental rights and 159
responsibilities, parenting time, or any other similar right 160
established by the laws of this state with respect to a child. 161
"Parental rights" does not include the parental duty of support 162
for a child. 163

(B) "Rape" means a violation of section 2907.02 of the 164
Revised Code or similar law of another state. 165

(C) "Sexual battery" means a violation of section 2907.03 of 166
the Revised Code or similar law of another state. 167

Sec. 3109.501. (A) The mother of a child alleging that the 168

child was conceived as a result of rape or sexual battery may 169
bring an action to declare the father to be the parent of a child 170
conceived as a result of rape or sexual battery. 171

(B) A court shall issue an order declaring that the father is 172
the parent of a child conceived as a result of rape or sexual 173
battery if the mother proves the following by a preponderance of 174
the evidence: 175

(1) The father was convicted of or pleaded guilty to the rape 176
or sexual battery. 177

(2) The mother was the victim of the rape or sexual battery. 178

(3) The child was conceived as a result of the rape or sexual 179
battery. 180

(4) Both the mother and father are established pursuant to 181
genetic testing or as provided in Chapter 3111. of the Revised 182
Code to be the child's parents. 183

Sec. 3109.502. In an action under section 3109.501 of the 184
Revised Code, the mother may meet the requirements of division 185
(B)(1) of that section by clear and convincing evidence that the 186
father committed the rape or sexual battery that is the basis of 187
the action even if the father was not convicted of or did not 188
plead guilty to, the violation. 189

Sec. 3109.503. A mother to whom the following apply may seek 190
a declaration described in section 3109.501 of the Revised Code 191
pursuant to a proceeding for divorce, dissolution, legal 192
separation, or annulment: 193

(A) She is the victim of a rape or sexual battery for which a 194
child was conceived as a result. 195

(B) She is married to the father who was convicted of, or 196

pleaded guilty to, the rape or sexual battery. 197

Sec. 3109.504. A court that issues an order declaring a 198
father to be the parent of a child conceived as a result of rape 199
or sexual battery under section 3109.501 of the Revised Code shall 200
notify any court that has issued an order granting parental rights 201
with respect to such child to the father. 202

Sec. 3109.505. (A) No court shall issue an order granting 203
parental rights with respect to a child to a father declared, 204
regarding that child, to be the parent of a child conceived as a 205
result of rape or sexual battery in an action or proceeding under 206
section 3109.501, 3109.503, or 3109.506 of the Revised Code. 207

(B) On receipt of a notice under section 3109.504 of the 208
Revised Code, a court that has issued an order granting parental 209
rights regarding the father and child addressed in the notice 210
shall terminate the order. 211

Sec. 3109.506. Any action described in section 3109.501 of 212
the Revised Code may be consolidated with any action or proceeding 213
for parental rights regarding a child conceived as a result of 214
rape or sexual battery. 215

Sec. 3109.507. A relative of a father whose parental rights 216
with the father's child have been terminated, denied, or limited 217
pursuant to sections 3109.50 to 3109.506 of the Revised Code may 218
be granted only those rights consented to by the mother of the 219
child. 220

Section 2. That existing sections 2105.06 and 3107.07 of the 221
Revised Code are hereby repealed. 222