

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**S. B. No. 207**

**Senators Patton, Manning**

—

**A B I L L**

To amend sections 2105.06, 2937.02, 3107.07, and 1  
3109.042 and to enact sections 2105.062, 3109.50, 2  
3109.501, 3109.502, 3109.503, 3109.504, 3109.505, 3  
3109.506, 3109.507, and 3109.508 of the Revised 4  
Code regarding the parental rights of a person who 5  
was convicted of, or pleaded guilty to, rape or 6  
sexual battery. 7

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

**Section 1.** That sections 2105.06, 2937.02, 3107.07, and 8  
3109.042 be amended and sections 2105.062, 3109.50, 3109.501, 9  
3109.502, 3109.503, 3109.504, 3109.505, 3109.506, 3109.507, and 10  
3109.508 of the Revised Code be 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 parent, or a relative of the parent, of a child who was 72  
conceived as the result of the parent's violation of section 73  
2907.02 or 2907.03 of the Revised Code shall not inherit the real 74  
property, personal property, or inheritance of the child or the 75  
child's lineal descendants as provided under section 2105.06 of 76  
the Revised Code. 77

**Sec. 2937.02. (A)** When, after arrest, the accused is taken 78  
before a court or magistrate, or when the accused appears pursuant 79  
to terms of summons or notice, the affidavit or complaint being 80  
first filed, the court or magistrate shall, before proceeding 81

further:	82
<del>(A)</del> (1) Inform the accused of the nature of the charge <del>against</del> <del>him</del> and the identity of the complainant and permit the accused or <del>his</del> counsel <u>for the accused</u> to see and read the affidavit or complaint or a copy <del>thereof</del> <u>of the affidavit or complaint;</u>	83 84 85 86
<del>(B)</del> (2) Inform the accused of <del>his</del> <u>the</u> right to have counsel and the right to a continuance in the proceedings to secure counsel;	87 88 89
<del>(C)</del> (3) Inform the accused of the effect of pleas of guilty, not guilty, and no contest, of <del>his</del> <u>the</u> right to trial by jury, and the necessity of making written demand <del>therefor</del> <u>for trial by jury;</u>	90 91 92
<del>(D)</del> (4) If the charge <del>be</del> <u>is</u> a felony, inform the accused of the nature and extent of possible punishment on conviction and of the right to preliminary hearing;	93 94 95
<u>(5) If the charge is a violation of section 2907.02 or 2907.03 of the Revised Code, inform the accused that a conviction of or plea of guilty to the violation may result in the following:</u>	96 97 98
<u>(a) In accordance with sections 3109.50 to 3109.508 of the Revised Code, the termination, denial, or limitation, as applicable, of the following:</u>	99 100 101
<u>(i) The accused's parental rights with respect to a child conceived as a result of the violation;</u>	102 103
<u>(ii) The accused's parental rights with respect to a child of the accused and alleged victim of the violation who was not conceived as a result of the violation;</u>	104 105 106
<u>(iii) The rights of a relative of the accused with respect to a child conceived as a result of the violation;</u>	107 108
<u>(b) The granting of a petition to adopt a child conceived as a result of the violation without the accused's consent as described in division (F) of section 3107.07 of the Revised Code;</u>	109 110 111

(c) The termination of the accused's, and the accused's 112  
relative's, eligibility to inherit from a child conceived as a 113  
result of the violation or the child's lineal descendants pursuant 114  
to section 2105.062 of the Revised Code. Such 115

(B) The court or magistrate may give the information ~~may be~~ 116  
~~given~~ provided pursuant to division (A) of this section to each 117  
accused individually, or, if at any time there exists any 118  
substantial number of defendants to be arraigned at the same 119  
session, the judge or magistrate may, by general announcement or 120  
by distribution of printed matter, advise all those accused 121  
concerning those rights general in their nature, and informing as 122  
to individual matters at arraignment. 123

**Sec. 3107.07.** Consent to adoption is not required of any of 124  
the following: 125

(A) A parent of a minor, when it is alleged in the adoption 126  
petition and the court, after proper service of notice and 127  
hearing, finds by clear and convincing evidence that the parent 128  
has failed without justifiable cause to provide more than de 129  
minimis contact with the minor or to provide for the maintenance 130  
and support of the minor as required by law or judicial decree for 131  
a period of at least one year immediately preceding either the 132  
filing of the adoption petition or the placement of the minor in 133  
the home of the petitioner. 134

(B) The putative father of a minor if either of the following 135  
applies: 136

(1) The putative father fails to register as the minor's 137  
putative father with the putative father registry established 138  
under section 3107.062 of the Revised Code not later than thirty 139  
days after the minor's birth; 140

(2) The court finds, after proper service of notice and 141

hearing, that any of the following are the case:	142
(a) The putative father is not the father of the minor;	143
(b) The putative father has willfully abandoned or failed to care for and support the minor;	144 145
(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.	146 147 148 149
(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;	150 151 152 153
(D) A parent whose parental rights have been terminated by order of a juvenile court under Chapter 2151. of the Revised Code;	154 155
(E) A parent who is married to the petitioner and supports the adoption;	156 157
(F) The father, <del>or</del> putative father, <u>or mother</u> , of a minor if the minor is conceived as the result of the commission of rape <u>or sexual battery</u> by the father <del>or</del> , putative father, <u>or mother</u> and the father <del>or</del> , putative father, <u>or mother</u> 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 <u>and "sexual battery" means a violation of section 2907.03 of the Revised Code or a similar law of another state.</u>	158 159 160 161 162 163 164 165 166
(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	167 168 169 170 171

withholding consent unreasonably; 172

(H) Any legal guardian or lawful custodian of the person to 173  
be adopted, other than a parent, who has failed to respond in 174  
writing to a request for consent, for a period of thirty days, or 175  
who, after examination of the written reasons for withholding 176  
consent, is found by the court to be withholding consent 177  
unreasonably; 178

(I) The spouse of the person to be adopted, if the failure of 179  
the spouse to consent to the adoption is found by the court to be 180  
by reason of prolonged unexplained absence, unavailability, 181  
incapacity, or circumstances that make it impossible or 182  
unreasonably difficult to obtain the consent or refusal of the 183  
spouse; 184

(J) Any parent, legal guardian, or other lawful custodian in 185  
a foreign country, if the person to be adopted has been released 186  
for adoption pursuant to the laws of the country in which the 187  
person resides and the release of such person is in a form that 188  
satisfies the requirements of the immigration and naturalization 189  
service of the United States department of justice for purposes of 190  
immigration to the United States pursuant to section 101(b)(1)(F) 191  
of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 192  
U.S.C. 1101(b)(1)(F), as amended or reenacted. 193

(K) Except as provided in divisions (G) and (H) of this 194  
section, a juvenile court, agency, or person given notice of the 195  
petition pursuant to division (A)(1) of section 3107.11 of the 196  
Revised Code that fails to file an objection to the petition 197  
within fourteen days after proof is filed pursuant to division (B) 198  
of that section that the notice was given; 199

(L) Any guardian, custodian, or other party who has temporary 200  
custody of the child. 201

**Sec. 3109.042.** (A) An unmarried female who gives birth to a 202  
child is the sole residential parent and legal custodian of the 203  
child until a court of competent jurisdiction issues an order 204  
designating another person as the residential parent and legal 205  
custodian. A court designating the residential parent and legal 206  
custodian of a child described in this section shall treat the 207  
mother and father as standing upon an equality when making the 208  
designation. 209

(B) Notwithstanding division (A) of this section, an 210  
unmarried female declared to be the parent of a child born as a 211  
result of rape or sexual battery under section 3109.501 of the 212  
Revised Code shall not be a residential parent and legal custodian 213  
of the child. 214

**Sec. 3109.50.** As used in sections 3109.501 to 3109.508 of the 215  
Revised Code: 216

(A) "Parental rights" means parental rights and 217  
responsibilities, parenting time, or any other similar right 218  
established by the laws of this state with respect to a child. 219  
"Parental rights" does not include the parental duty of support 220  
for a child. 221

(B) "Rape" means a violation of section 2907.02 of the 222  
Revised Code or similar law of another state. 223

(C) "Sexual battery" means a violation of section 2907.03 of 224  
the Revised Code or similar law of another state. 225

**Sec. 3109.501.** (A) Except as provided in division (C) of this 226  
section, a person who is the victim of rape or sexual battery for 227  
which a child was conceived as a result may bring an action to 228  
declare the person who was convicted of or pleaded guilty to the 229  
offense to be the parent of a child conceived as a result of rape 230

or sexual battery. 231

(B) A court may issue an order declaring that the other 232  
person is the parent of a child conceived as a result of rape or 233  
sexual battery if all of the following are established by clear 234  
and convincing evidence: 235

(1) The other person was convicted of or pleaded guilty to 236  
the rape or sexual battery. 237

(2) The person bringing the action was the victim of the rape 238  
or sexual battery. 239

(3) The child was conceived as a result of the rape or sexual 240  
battery. 241

(4) Both persons are the parents of the child established 242  
pursuant to genetic testing or as provided in Chapter 3111. of the 243  
Revised Code. 244

(C) A person to whom the following apply may seek a 245  
declaration described in division (A) of this section only 246  
pursuant to a proceeding for divorce, dissolution, legal 247  
separation, or annulment: 248

(1) The person is the victim of a rape or sexual battery for 249  
which a child was conceived as a result. 250

(2) The person is married to the person who was convicted of, 251  
or pleaded guilty to, the rape or sexual battery. 252

**Sec. 3109.502.** An action under section 3109.501 of the 253  
Revised Code shall be continued until the court renders a judgment 254  
and all appeals have been exhausted in the criminal proceedings 255  
regarding the charge of rape or sexual battery that is the basis 256  
of the action. On the final disposition of the criminal 257  
proceedings, the court shall do one of the following: 258

(A) Proceed with the action if the person was convicted of or 259

pleaded guilty to rape or sexual battery; 260

(B) Dismiss the action if the person was acquitted of the 261  
charge of rape or sexual battery. 262

**Sec. 3109.503.** A court that issues an order declaring a 263  
person to be the parent of a child conceived as a result of rape 264  
or sexual battery under section 3109.501 of the Revised Code shall 265  
notify any court that has issued an order granting parental rights 266  
with respect to such child to the person. 267

**Sec. 3109.504.** (A) No court shall issue an order granting 268  
parental rights with respect to a child to a person declared, 269  
regarding that child, to be the parent of a child conceived as a 270  
result of rape or sexual battery in an action or proceeding under 271  
section 3109.501, 3109.505, or 3109.506 of the Revised Code. 272

(B) On receipt of a notice under section 3109.503 of the 273  
Revised Code, a court that has issued an order granting parental 274  
rights regarding the person and child addressed in the notice 275  
shall terminate the order. 276

**Sec. 3109.505.** (A) A person who is the parent of a child who 277  
was not conceived as a result of rape or sexual battery may seek 278  
to terminate, prevent the granting of, or limit parental rights of 279  
the child's other parent with respect to that child if the parents 280  
meet the following conditions: 281

(1) The other parent was convicted of, or pleaded guilty to, 282  
rape or sexual battery committed by the other parent. 283

(2) The person was the victim of the rape or sexual battery 284  
committed by the other parent. 285

(B) The remedy described in division (A) of this section 286  
shall be pursued under one of the following proceedings: 287

(1) If the person is married to the other parent, in a proceeding for divorce, dissolution, legal separation, or annulment; 288  
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(2) If the person is unmarried, or is married but not to the other parent, in an action under section 3109.04 or 3109.051 of the Revised Code, as applicable. 291  
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(C) The conditions in divisions (A)(1) and (2) of this section shall be established by clear and convincing evidence before the remedy described in division (A) of this section may be granted. 294  
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Sec. 3109.506. Any action described in section 3109.501 of the Revised Code may be consolidated with any action or proceeding described in section 3109.505 of the Revised Code or any action or proceeding for parental rights regarding a child conceived as a result of rape or sexual battery. 298  
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Sec. 3109.507. A relative of a person whose parental rights with that person's child have been terminated, denied, or limited pursuant to sections 3109.50 to 3109.506 of the Revised Code may be granted only those rights consented to by the other parent of the child. 303  
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Sec. 3109.508. The denial, termination, or limitation of parental rights under sections 3109.50 to 3109.507 of the Revised Code does not relieve the person of any debts owed to the other parent or the child prior to the denial, termination, or limitation. 308  
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**Section 2.** That existing sections 2105.06, 2937.02, 3107.07, and 3109.042 of the Revised Code are hereby repealed. 313  
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