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Senators Patton, Manning, Turner, Tavares

Cosponsors: Senators Bacon, Balderson, Beagle, Brown, Burke, Cafaro, Coley, Eklund, Gardner, Gentile, Hite, Hughes, Jones, Jordan, Kearney, Lehner, Obhof, Oelslager, Peterson, Sawyer, Schaffer, Schiavoni, Uecker, Widener

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A B I L L

To amend sections 2105.06, 2937.02, 3107.07, 3109.042, and 3111.04 and to enact sections 2105.062, 3109.50, 3109.501, 3109.502, 3109.503, 3109.504, 3109.505, 3109.506, and 3109.507 of the Revised Code regarding the parental rights of a person who was convicted of or pleaded guilty to rape or sexual battery.

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

Section 1. That sections 2105.06, 2937.02, 3107.07, 3109.042,

and 3111.04 be amended and sections 2105.062, 3109.50, 3109.501, 3109.502, 3109.503, 3109.504, 3109.505, 3109.506, and 3109.507 of the Revised Code be enacted to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

The parent, or a relative of the parent, of a child who was conceived as the result of the parent's violation of section 2907.02 or 2907.03 of the Revised Code shall not inherit the real property, personal property, or inheritance of the child or the child's lineal descendants as provided under section 2105.06 of the Revised Code.

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

~~(A)~~(1) Inform the accused of the nature of the charge ~~against him~~ and the identity of the complainant and permit the accused or ~~his~~ counsel for the accused to see and read the affidavit or complaint or a copy ~~thereof~~ of the affidavit or complaint;

~~(B)~~(2) Inform the accused of ~~his~~ the right to have counsel and the right to a continuance in the proceedings to secure counsel;

~~(C)~~(3) Inform the accused of the effect of pleas of guilty, not guilty, and no contest, of ~~his~~ the right to trial by jury, and the necessity of making written demand ~~therefor~~ for trial by jury;

~~(D)~~(4) If the charge ~~be~~ is a felony, inform the accused of the nature and extent of possible punishment on conviction and of the right to preliminary hearing;

(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:

(a) In accordance with sections 3109.50 to 3109.507 of the Revised Code, the termination, denial, or limitation, as applicable, of the following:

(i) The accused's parental rights with respect to a child conceived as a result of the violation;

(ii) The rights of a relative of the accused with respect to a child conceived as a result of the violation.

(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;

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

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

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

(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.

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

(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;

(2) The court finds, after proper service of notice and hearing, that any of the following are the case:

(a) The putative father is not the father of the minor;

(b) The putative father has willfully abandoned or failed to care for and support the minor;

(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.

(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;

(D) A parent whose parental rights have been terminated by order of a juvenile court under Chapter 2151. of the Revised Code;

(E) A parent who is married to the petitioner and supports the adoption;

(F) The father, ~~or~~ putative father, or mother, of a minor if the minor is conceived as the result of the commission of rape or sexual battery by the father ~~or,~~ putative father, or mother and the father ~~or,~~ putative father, or mother 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 and "sexual battery" means a violation of section 2907.03 of the Revised Code or a similar law of another state.

(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;

(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;

(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;

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

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

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

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

(B) Notwithstanding division (A) of this section, an unmarried female who has been convicted of or pleaded guilty to rape or sexual battery and has been declared under section 3109.501 of the Revised Code to be the parent of a child born as a result of rape or sexual battery shall not be a residential parent and legal custodian of that child.

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

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

(B) "Rape" means a violation of section 2907.02 of the

Revised Code or similar law of another state.

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

Sec. 3109.501. (A) Except as provided in division (C) and subject to division (D) of this section, a person who is the victim of rape or sexual battery for which a child was conceived as a result may bring an action to declare the person who was convicted of or pleaded guilty to the offense to be the parent of the child conceived as a result of rape or sexual battery committed by the other person.

(B) In an action seeking a declaration described in division (A) of this section, a court may issue an order declaring that the other person is the parent of a child conceived as a result of rape or sexual battery committed by the other person if all of the following are established by clear and convincing evidence:

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

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

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

(4) Both persons are the parents of the child established pursuant to genetic testing conducted in different places or at different times or as provided in Chapter 3111. of the Revised Code.

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

(1) The person is the victim of a rape or sexual battery for

which a child was conceived as a result.

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

(D) An action seeking a declaration under division (A) of this section shall be filed in a court with jurisdiction over juvenile matters if the parents of the child are not married and in a court with jurisdiction over domestic relations matters, pursuant to a proceeding for divorce, dissolution, legal separation, or annulment, if the parents of the child are married.

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

(A) Proceed with the action if the person was convicted of or pleaded guilty to rape or sexual battery;

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

Sec. 3109.503. (A) A person who brings an action under division (A) of section 3109.501 of the Revised Code seeking a declaration that another person is the parent of a child conceived as a result of rape or sexual battery committed by the other person shall notify the court in which the action is brought of any order previously issued by any court that grants the other person parental rights with respect to that child. The notice shall include the name of the court that issued the order, the date of issuance of the order, the name and number of the case in which the order was issued, the parental rights granted under the order, and the name of the person to whom the parental rights were

granted.

(B) A court that issues an order under section 3109.501 of the Revised Code declaring a person to be the parent of a child conceived as a result of rape or sexual battery committed by the person shall notify any court that has issued an order granting the person parental rights with respect to that child and that was identified in accordance with division (A) of this section by the person who brought the action.

Sec. 3109.504. (A) No court shall issue an order granting parental rights with respect to a child to a person who has been convicted of or pleaded guilty to rape or sexual battery and has been declared, in an action or proceeding under section 3109.501 or 3109.505 of the Revised Code regarding that child, to be the parent of a child conceived as a result of rape or sexual battery committed by the person.

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

Sec. 3109.505. Any action described in section 3109.501 of the Revised Code may be consolidated with any action or proceeding for parental rights regarding a child conceived as a result of rape or sexual battery.

Sec. 3109.506. 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 3109.505 of the Revised Code may be granted only those rights consented to by the other parent of the child.

Sec. 3109.507. (A) If a court issues an order under section

3109.501 of the Revised Code declaring a person to be the parent of a child conceived as a result of rape or sexual battery committed by the person, no court shall revoke or modify the order or the resulting denial, termination, or limitation of the person's parental rights and the person's relatives' rights under sections 3109.50 to 3109.506 of the Revised Code, except upon motion of the victim of the rape or sexual battery requesting the revocation or modification. The motion shall be made in the court that issued the order under section 3109.501 of the Revised Code.

(B) The denial, termination, or limitation of parental rights under sections 3109.50 to 3109.506 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.

Sec. 3111.04. (A) ~~An~~ (1) Except as provided in division (A)(2) of this section, 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.

(2) A man alleged or alleging himself to be the child's father is not eligible to file an action under division (A)(1) of this section if the man was convicted of or pleaded guilty to rape or sexual battery, the victim of the rape or sexual battery was the child's mother, and the child was conceived as a result of the rape or sexual battery.

(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~~:

(1) "Public assistance" means all of the following:

~~(1)~~(a) Medicaid;

~~(2)~~(b) Ohio works first under Chapter 5107. of the Revised Code;

~~(3)~~(c) Disability financial assistance under Chapter 5115. of the Revised Code.

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

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

Section 2. That existing sections 2105.06, 2937.02, 3107.07,

3109.042, and 3111.04 of the Revised Code are hereby repealed.