

As Passed by the Senate

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

Sub. S. B. No. 207

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, 1
3109.042, and 3111.04 and to enact sections 2
2105.062, 3109.50, 3109.501, 3109.502, 3109.503,
3109.504, 3109.505, 3109.506, and 3109.507 of the 3
Revised Code regarding the parental rights of a 4
person who was convicted of or pleaded guilty to 5
rape or sexual battery. 6
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2105.06, 2937.02, 3107.07, 3109.042, 8
and 3111.04 be amended and sections 2105.062, 3109.50, 3109.501, 9
3109.502, 3109.503, 3109.504, 3109.505, 3109.506, and 3109.507 of 10
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 intestate or their lineal descendants, per stirpes;	18 19
(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;	20 21 22 23 24
(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;	25 26 27 28 29 30
(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;	31 32 33 34 35 36 37 38
(E) If there are no children or their lineal descendants, then the whole to the surviving spouse;	39 40
(F) If <u>Except as provided in section 2105.062 of the Revised Code, if</u> there is no spouse and no children or their lineal descendants, to the parents of the intestate equally, or to the surviving parent;	41 42 43 44
(G) If <u>Except as provided in section 2105.062 of the Revised Code, if</u> there is no spouse, no children or their lineal	45 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

~~(A)~~(1) Inform the accused of the nature of the charge ~~against~~ 83
~~him~~ and the identity of the complainant and permit the accused or 84
~~his~~ counsel for the accused to see and read the affidavit or 85
complaint or a copy ~~thereof~~ of the affidavit or complaint; 86

~~(B)~~(2) Inform the accused of ~~his~~ the right to have counsel 87
and the right to a continuance in the proceedings to secure 88
counsel; 89

~~(C)~~(3) Inform the accused of the effect of pleas of guilty, 90
not guilty, and no contest, of ~~his~~ the right to trial by jury, and 91
the necessity of making written demand ~~therefor~~ for trial by jury; 92

~~(D)~~(4) If the charge ~~be~~ is a felony, inform the accused of 93
the nature and extent of possible punishment on conviction and of 94
the right to preliminary hearing; 95

(5) If the charge is a violation of section 2907.02 or 96
2907.03 of the Revised Code, inform the accused that a conviction 97
of or plea of guilty to the violation may result in the following: 98

(a) In accordance with sections 3109.50 to 3109.507 of the 99
Revised Code, the termination, denial, or limitation, as 100
applicable, of the following: 101

(i) The accused's parental rights with respect to a child 102
conceived as a result of the violation; 103

(ii) The rights of a relative of the accused with respect to 104
a child conceived as a result of the violation. 105

(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 136
days after the minor's birth; 137

(2) The court finds, after proper service of notice and 138
hearing, that any of the following are the case: 139

(a) The putative father is not the father of the minor; 140

(b) The putative father has willfully abandoned or failed to 141
care for and support the minor; 142

(c) The putative father has willfully abandoned the mother of 143
the minor during her pregnancy and up to the time of her surrender 144
of the minor, or the minor's placement in the home of the 145
petitioner, whichever occurs first. 146

(C) Except as provided in section 3107.071 of the Revised 147
Code, a parent who has entered into a voluntary permanent custody 148
surrender agreement under division (B) of section 5103.15 of the 149
Revised Code; 150

(D) A parent whose parental rights have been terminated by 151
order of a juvenile court under Chapter 2151. of the Revised Code; 152

(E) A parent who is married to the petitioner and supports 153
the adoption; 154

(F) The father, ~~or~~ putative father, or mother, of a minor if 155
the minor is conceived as the result of the commission of rape or 156
sexual battery by the father ~~or~~, putative father, or mother and 157
the father ~~or~~, putative father, or mother is convicted of or 158
pleads guilty to the commission of that offense. As used in this 159
division, "rape" means a violation of section 2907.02 of the 160
Revised Code or a similar law of another state and "sexual 161
battery" means a violation of section 2907.03 of the Revised Code 162
or a similar law of another state. 163

(G) A legal guardian or guardian ad litem of a parent 164
judicially declared incompetent in a separate court proceeding who 165

has failed to respond in writing to a request for consent, for a 166
period of thirty days, or who, after examination of the written 167
reasons for withholding consent, is found by the court to be 168
withholding consent unreasonably; 169

(H) Any legal guardian or lawful custodian of the person to 170
be adopted, other than a parent, who has failed to respond in 171
writing to a request for consent, for a period of thirty days, or 172
who, after examination of the written reasons for withholding 173
consent, is found by the court to be withholding consent 174
unreasonably; 175

(I) The spouse of the person to be adopted, if the failure of 176
the spouse to consent to the adoption is found by the court to be 177
by reason of prolonged unexplained absence, unavailability, 178
incapacity, or circumstances that make it impossible or 179
unreasonably difficult to obtain the consent or refusal of the 180
spouse; 181

(J) Any parent, legal guardian, or other lawful custodian in 182
a foreign country, if the person to be adopted has been released 183
for adoption pursuant to the laws of the country in which the 184
person resides and the release of such person is in a form that 185
satisfies the requirements of the immigration and naturalization 186
service of the United States department of justice for purposes of 187
immigration to the United States pursuant to section 101(b)(1)(F) 188
of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 189
U.S.C. 1101(b)(1)(F), as amended or reenacted. 190

(K) Except as provided in divisions (G) and (H) of this 191
section, a juvenile court, agency, or person given notice of the 192
petition pursuant to division (A)(1) of section 3107.11 of the 193
Revised Code that fails to file an objection to the petition 194
within fourteen days after proof is filed pursuant to division (B) 195
of that section that the notice was given; 196

(L) Any guardian, custodian, or other party who has temporary custody of the child. 197
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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. 199
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(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. 207
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Sec. 3109.50. As used in sections 3109.501 to 3109.507 of the Revised Code: 213
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(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. 215
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(B) "Rape" means a violation of section 2907.02 of the Revised Code or similar law of another state. 220
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(C) "Sexual battery" means a violation of section 2907.03 of the Revised Code or similar law of another state. 222
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Sec. 3109.501. (A) Except as provided in division (C) and subject to division (D) of this section, a person who is the 224
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victim of rape or sexual battery for which a child was conceived 226
as a result may bring an action to declare the person who was 227
convicted of or pleaded guilty to the offense to be the parent of 228
the child conceived as a result of rape or sexual battery 229
committed by the other person. 230

(B) In an action seeking a declaration described in division 231
(A) of this section, a court may issue an order declaring that the 232
other person is the parent of a child conceived as a result of 233
rape or sexual battery committed by the other person if all of the 234
following are established by clear 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 conducted in different places or at 243
different times or as provided in Chapter 3111. of the Revised 244
Code. 245

(C) A person to whom the following apply may seek a 246
declaration described in division (A) of this section only 247
pursuant to a proceeding for divorce, dissolution, legal 248
separation, or annulment: 249

(1) The person is the victim of a rape or sexual battery for 250
which a child was conceived as a result. 251

(2) The person is married to the person who was convicted of 252
or pleaded guilty to the rape or sexual battery. 253

(D) An action seeking a declaration under division (A) of 254
this section shall be filed in a court with jurisdiction over 255

juvenile matters if the parents of the child are not married and 256
in a court with jurisdiction over domestic relations matters, 257
pursuant to a proceeding for divorce, dissolution, legal 258
separation, or annulment, if the parents of the child are married. 259

Sec. 3109.502. An action under section 3109.501 of the 260
Revised Code shall be continued until the court renders a judgment 261
and all appeals have been exhausted in the criminal proceedings 262
regarding the charge of rape or sexual battery that is the basis 263
of the action. On the final disposition of the criminal 264
proceedings, the court shall do one of the following: 265

(A) Proceed with the action if the person was convicted of or 266
pleaded guilty to rape or sexual battery; 267

(B) Dismiss the action if the person was acquitted of the 268
charge of rape or sexual battery. 269

Sec. 3109.503. (A) A person who brings an action under 270
division (A) of section 3109.501 of the Revised Code seeking a 271
declaration that another person is the parent of a child conceived 272
as a result of rape or sexual battery committed by the other 273
person shall notify the court in which the action is brought of 274
any order previously issued by any court that grants the other 275
person parental rights with respect to that child. The notice 276
shall include the name of the court that issued the order, the 277
date of issuance of the order, the name and number of the case in 278
which the order was issued, the parental rights granted under the 279
order, and the name of the person to whom the parental rights were 280
granted. 281

(B) A court that issues an order under section 3109.501 of 282
the Revised Code declaring a person to be the parent of a child 283
conceived as a result of rape or sexual battery committed by the 284
person shall notify any court that has issued an order granting 285

the person parental rights with respect to that child and that was 286
identified in accordance with division (A) of this section by the 287
person who brought the action. 288

Sec. 3109.504. (A) No court shall issue an order granting 289
parental rights with respect to a child to a person who has been 290
convicted of or pleaded guilty to rape or sexual battery and has 291
been declared, in an action or proceeding under section 3109.501 292
or 3109.505 of the Revised Code regarding that child, to be the 293
parent of a child conceived as a result of rape or sexual battery 294
committed by the person. 295

(B) On receipt of a notice under section 3109.503 of the 296
Revised Code, a court that has issued an order granting parental 297
rights regarding the person and child addressed in the notice 298
shall terminate the order. 299

Sec. 3109.505. Any action described in section 3109.501 of 300
the Revised Code may be consolidated with any action or proceeding 301
for parental rights regarding a child conceived as a result of 302
rape or sexual battery. 303

Sec. 3109.506. A relative of a person whose parental rights 304
with that person's child have been terminated, denied, or limited 305
pursuant to sections 3109.50 to 3109.505 of the Revised Code may 306
be granted only those rights consented to by the other parent of 307
the child. 308

Sec. 3109.507. (A) If a court issues an order under section 309
3109.501 of the Revised Code declaring a person to be the parent 310
of a child conceived as a result of rape or sexual battery 311
committed by the person, no court shall revoke or modify the order 312
or the resulting denial, termination, or limitation of the 313
person's parental rights and the person's relatives' rights under 314

sections 3109.50 to 3109.506 of the Revised Code, except upon 315
motion of the victim of the rape or sexual battery requesting the 316
revocation or modification. The motion shall be made in the court 317
that issued the order under section 3109.501 of the Revised Code. 318

(B) The denial, termination, or limitation of parental rights 319
under sections 3109.50 to 3109.506 of the Revised Code does not 320
relieve the person of any debts owed to the other parent or the 321
child prior to the denial, termination, or limitation. 322

Sec. 3111.04. (A) ~~An~~ (1) Except as provided in division 323
(A)(2) of this section, an action to determine the existence or 324
nonexistence of the father and child relationship may be brought 325
by the child or the child's personal representative, the child's 326
mother or her personal representative, a man alleged or alleging 327
himself to be the child's father, the child support enforcement 328
agency of the county in which the child resides if the child's 329
mother, father, or alleged father is a recipient of public 330
assistance or of services under Title IV-D of the "Social Security 331
Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the 332
alleged father's personal representative. 333

(2) A man alleged or alleging himself to be the child's 334
father is not eligible to file an action under division (A)(1) of 335
this section if the man was convicted of or pleaded guilty to rape 336
or sexual battery, the victim of the rape or sexual battery was 337
the child's mother, and the child was conceived as a result of the 338
rape or sexual battery. 339

(B) An agreement does not bar an action under this section. 340

(C) If an action under this section is brought before the 341
birth of the child and if the action is contested, all 342
proceedings, except service of process and the taking of 343
depositions to perpetuate testimony, may be stayed until after the 344
birth. 345

(D) A recipient of public assistance or of services under 346
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 347
U.S.C.A. 651, as amended, shall cooperate with the child support 348
enforcement agency of the county in which a child resides to 349
obtain an administrative determination pursuant to sections 350
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 351
determination pursuant to sections 3111.01 to 3111.18 of the 352
Revised Code, of the existence or nonexistence of a parent and 353
child relationship between the father and the child. If the 354
recipient fails to cooperate, the agency may commence an action to 355
determine the existence or nonexistence of a parent and child 356
relationship between the father and the child pursuant to sections 357
3111.01 to 3111.18 of the Revised Code. 358

(E) As used in this section, ~~"public:~~ 359

(1) "Public assistance" means all of the following: 360

~~(1)~~(a) Medicaid; 361

~~(2)~~(b) Ohio works first under Chapter 5107. of the Revised 362
Code; 363

~~(3)~~(c) Disability financial assistance under Chapter 5115. of 364
the Revised Code. 365

(2) "Rape" means a violation of section 2907.02 of the 366
Revised Code or similar law of another state. 367

(3) "Sexual battery" means a violation of section 2907.03 of 368
the Revised Code or similar law of another state. 369

Section 2. That existing sections 2105.06, 2937.02, 3107.07, 370
3109.042, and 3111.04 of the Revised Code are hereby repealed. 371