



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 257

130th General Assembly  
(As Reported by H. Judiciary)

**Reps.** Antonio and Schuring, Cera, Rogers, Driehaus, Becker, Smith, Stebelton, Strahorn, Maag, Barborak, Buchy, Phillips, Foley, R. Hagan, Sheehy, Brown, Brenner, Reece, Fedor, Ramos, Budish, Grossman, Celebrezze, Pillich, Stautberg, Winburn

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## BILL SUMMARY

- Allows the mother of a child alleging the child was conceived as a result of rape or sexual battery to bring an action to declare the father to be the parent of a child conceived as a result of rape or sexual battery.
- Requires a court to issue an order declaring that the father is the parent of a child conceived as a result of rape or sexual battery if the mother proves certain information by a preponderance of the evidence.
- Requires a court that has issued such an order to notify any court that has issued an order granting parental rights to the father.
- Prohibits a court from issuing an order granting parental rights to a child to a father declared, regarding that child, to be the parent of a child conceived as a result of rape or sexual battery.
- Requires a court that has issued an order granting parental rights and has received the notice to terminate the order.
- Allows a relative of a father whose parental rights with the father's child have been terminated, denied, or limited to be granted only those rights consented to by the mother of the child.
- Provides that a man alleged or alleging himself to be the child's father is ineligible to file an action to determine the existence or nonexistence of the father and child relationship if the man was convicted of or pleaded guilty to rape or sexual battery,

the victim of that offense was the child's mother, and the child was conceived as a result of the offense.

- Provides that consent to adoption is not required from the father of a minor declared, with respect to the minor, to be the parent of a child conceived as a result of rape or sexual battery.
- Prohibits the father declared to be the parent of a child conceived as a result of rape or sexual battery, or a relative of the father, from inheriting from the child or the child's lineal descendants under the law of descent and distribution.
- Authorizes a juvenile court to grant permanent custody of a child to a public children services agency or private child placing agency that files a motion for permanent custody if the court determines, by clear and convincing evidence, that it is in the child's best interest to grant such permanent custody and the child was conceived as a result of rape or sexual battery.

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## **CONTENT AND OPERATION**

### **Action to declare father to be the parent of a child conceived as a result of rape or sexual battery**

The bill allows the mother of a child alleging that the child was conceived as a result of rape or sexual battery to bring an action to declare the father to be the parent of a child conceived as a result of rape or sexual battery.<sup>1</sup> The bill requires the court to issue an order declaring that the father is the parent of a child conceived as a result of rape or sexual battery if the mother proves the following by a preponderance of the evidence:<sup>2</sup>

- The father was convicted of or pleaded guilty to the rape or sexual battery.
- The mother was a victim of the rape or sexual battery.
- The child was conceived as a result of the rape or sexual battery.

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<sup>1</sup> R.C. 3109.501(A).

<sup>2</sup> R.C. 3109.501(B).



Under the bill, a court that issues an order declaring a father to be the parent of a child conceived as a result of rape or sexual battery must notify any court that has issued an order granting parental rights with respect to such child to the father.<sup>3</sup>

### **Court may not issue order granting parental rights to father declared to be parent of child conceived as a result of rape or sexual battery**

Under the bill, a court is prohibited from issuing an order granting parental rights with respect to a child to a father declared, regarding that child, to be the parent of a child conceived as a result of rape or sexual battery. On receipt of the notice described in the preceding paragraph, a court that has issued an order granting parental rights regarding the father and child addressed in the notice must terminate the order.<sup>4</sup>

### **Declaration that father is the parent of a child conceived as a result of rape or sexual battery in a proceeding for divorce, dissolution, legal separation, or annulment**

The bill allows a mother to whom the following apply to seek a declaration that the father of her child is the parent of a child conceived as a result of rape or sexual battery pursuant to a proceeding for divorce, dissolution, legal separation, or annulment:<sup>5</sup>

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

(2) She is married to the father who was convicted of, or pleaded guilty to, the rape or sexual battery.

### **Consolidation of actions**

The bill provides that any action to declare the father to be the parent of a child conceived as a result of rape or sexual battery may be consolidated with any action or proceeding for parental rights regarding a child conceived as a result of rape or sexual battery.<sup>6</sup>

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<sup>3</sup> R.C. 3109.503.

<sup>4</sup> R.C. 3109.504.

<sup>5</sup> R.C. 3109.502.

<sup>6</sup> R.C. 3109.505.

## **Relative of father granted parental rights**

Under the bill, a relative of a father whose parental rights with the father's child have been terminated, denied, or limited because the child was conceived as a result of rape or sexual battery may be granted only those rights consented to by the mother of the child.<sup>7</sup>

## **Ineligibility to bring parentage action**

The bill provides that a man alleged or alleging himself to be the child's father is not eligible to file an action under current law to determine the existence or nonexistence of the father and child relationship if the man was convicted or pleaded guilty to rape or sexual battery, the victim of the rape or sexual battery was the mother of the child, and the child was conceived as a result of the rape or sexual battery.<sup>8</sup>

## **Definitions**

The bill defines the following terms as used in the provisions described in the preceding paragraphs:<sup>9</sup>

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

(2) "Rape" and "sexual battery" are the same offenses as in existing law and include similar laws in other states.

## **Father of child conceived as a result of rape or sexual battery prohibited from inheriting from that child**

The bill prohibits the father declared to be the parent of a child conceived as a result of rape or sexual battery, or a relative of the father, from inheriting the real property, personal property, or inheritance of the child or the child's lineal descendants under Ohio's law regarding descent and distribution. "Relative" includes a parent, grandparent, great-grandparent, stepparent, child, grandchild, aunt, uncle, cousin, sibling, and half sibling.<sup>10</sup>

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<sup>7</sup> R.C. 3109.506.

<sup>8</sup> R.C. 3111.04(A)(2).

<sup>9</sup> R.C. 3109.50 and 3111.04(E).

<sup>10</sup> R.C. 2105.06 and 2105.062.



## Consent to adoption not required

The bill includes the father of a minor declared, with respect to the minor, to be the parent of a child conceived as a result of rape or sexual battery among the list of persons whose consent is not required for the adoption of a child.<sup>11</sup>

## Granting permanent custody of child conceived as a result of rape or sexual battery to public children services agency or private child placing agency filing a motion for permanent custody

The bill authorizes a juvenile court generally to grant permanent custody of a child to a public children services agency or private child placing agency that files a motion for permanent custody of the child if the court determines at the hearing, by clear and convincing evidence, that it is in the best interest of the child to grant permanent custody to the agency that filed the motion and that the child was conceived as a result of rape or sexual battery.<sup>12</sup>

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## HISTORY

ACTION	DATE
Introduced	09-04-13
Reported, H. Judiciary	12-05-13

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<sup>11</sup> R.C. 3107.07(M).

<sup>12</sup> R.C. 2151.414(B)(1)(e).

