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Senate Bill 595 (Substitute S-1)
Sponsor: Senator Joel D. Gougeon
Committee: Health Policy

Date Completed: 10-19-99

CONTENT

The bill would amend the Paternity Act to revise provisions regarding court-ordered blood or tissue tests to determine paternity, specifically in regard to DNA profiling, the destruction of genetic testing material, and the expungement of records.

Currently, in a paternity proceeding before trial, upon application made by either party or on its own motion, the court can order a mother, child, and alleged father to submit to blood or tissue typing determinations, including DNA profiles, to determine whether the alleged father is likely to be, or is not, the father of the child. The bill would refer to DNA identification profiling, rather than DNA profiles. "DNA identification profiling" would mean a validated scientific method of analyzing components of DNA molecules in a sample to identify the pattern of the components' chemical structure that was unique to the individual. "Sample" would mean a portion of an individual's blood, saliva, or tissue collected from the individual. The bill would delete the definition of "DNA profile", i.e., the pattern of fragments of DNA used both to identify individuals and to study the relatedness of individuals.

Under the Act, if the result of blood or tissue typing or a DNA profile is inconclusive, a written report including a calculation of the probability of paternity must be filed with the court. The bill provides that if a DNA identification profile were conducted, the person who produced the report would have to include in it only the probability of paternity, and could not include any other genetic information.

Currently, if a man is found not to be the child's father, the court must order his genetic testing material to be destroyed. The bill provides, instead, that the court would have to order the contracting laboratory to destroy the material in compliance with the Public Health Code's requirements for the disposal of medical waste, and in the presence of a witness. After the man's genetic testing material was destroyed, the contracting laboratory would have to make and keep a written record of the destruction, and have the individual who witnessed it sign the record. The laboratory also would have to expunge its records regarding the genetic paternity testing performed on the material in accordance with the national standards under which the laboratory was accredited.

Currently, if two or more persons are determined to have a probability of paternity of 99% or higher, paternity must be presumed for the person with the highest probability. The bill provides, instead, that if the results of the analysis of genetic testing material from two or more persons indicated a probability of paternity greater than 99%, the contracting laboratory would have to conduct additional genetic paternity testing until all but one of the putative fathers were eliminated, unless the dispute involved two or more putative fathers who had identical DNA.

Under the Act, if a determination of exclusion of paternity cannot be made, a written report including the probability of paternity must be filed with the court and served on the mother and alleged father. The bill provides that if the written report were admitted into paternity proceedings, the court would have to exclude an alleged father's name from that part of the report that was made part of the public court record if all of the following circumstances existed:

- The court ordered more than one alleged father to submit to blood or tissue typing or DNA identification profiling.
- The blood or tissue typing test results or the DNA identification profile indicated that the alleged father's probability of paternity was less than 99%, and the blood or tissue typing test results or DNA identification profile for another of the alleged fathers indicated that his probability of paternity was 99% or higher.

Each year, a contracting laboratory would have to cause to be conducted an independent audit verifying the laboratory's compliance with the requirements in the bill. The audit could not disclose the names of, or otherwise identify, the test subjects required to submit to blood or tissue typing or DNA identification profiling during the previous year. The contracting laboratory would have to forward the audit to the Department of Consumer and Industry Services.

MCL 722.711 et al.

Legislative Analyst: G. Towne

FISCAL IMPACT

It appears that the bill would have an indeterminate fiscal impact on State government. The Family Independence Agency, in relation to its Child Support Enforcement activities, contracts with National Legal Laboratories for the testing of individuals to determine probability of paternity. Currently, the department spends per test approximately \$51 per person, or approximately \$153 for each test of a trio of persons: the alleged father, the mother, and the child. According to the department, an average of 1,400 persons are tested per month. Therefore, the average monthly cost is about \$71,400 Gross. Testing costs increased over the past year because of Act changes in 1998 for expunging the laboratory's records (Sec. 6a(2)) and contract costs would increase further with the inclusion of audit provisions (Sec. 6a(5)).

Fiscal Analyst: C. Cole

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.