

Second Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 04-0458.01 Jennifer Gilroy

**HOUSE BILL 04-1083**

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**HOUSE SPONSORSHIP**

**Sinclair,**

**SENATE SPONSORSHIP**

**Jones,**

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**House Committees**

Information & Technology

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING TERMINATION OF CHILD SUPPORT OBLIGATIONS BASED**  
102 **UPON DNA EVIDENCE OF NONPARENTAGE.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Specifies that conclusive DNA genetic testing results demonstrating that a person is not the biological parent of a child shall constitute a substantial and continuing change in circumstances warranting modification of child support. Directs the court in such cases to terminate the child support installments accruing after the filing of the motion for modification based on the genetic testing results.

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Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
March 2, 2004

HOUSE  
Amended 2nd Reading  
February 27, 2004

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 4 of title 19, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **19-4-107.3. Determination of parentage final - modifications -**  
5 **exceptions.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF  
6 THIS SECTION, AN ORDER DETERMINING PARENTAGE PURSUANT TO THIS  
7 ARTICLE IS FINAL.

8 (2) (a) NOTWITHSTANDING THE PROVISIONS SET FORTH IN SECTION  
9 19-4-107, AN ORDER DETERMINING PARENTAGE PURSUANT TO THIS  
10 ARTICLE SHALL BE MODIFIED OR SET ASIDE IF GENETIC TEST RESULTS  
11 BASED ON DNA TESTING, ADMINISTERED IN ACCORDANCE WITH SECTION  
12 13-25-126, C.R.S., ESTABLISHES THE EXCLUSION OF THE INDIVIDUAL  
13 NAMED AS THE FATHER IN THE ORDER AND ESTABLISHES THAT THE  
14 DAMAGE TO THE PURPORTED FATHER THAT WOULD RESULT FROM  
15 PRESERVING THE DETERMINATION OF PARENTAGE OUTWEIGHS THE HARM  
16 TO THE CHILD THAT MAY RESULT FROM SETTING ASIDE THE  
17 DETERMINATION OF PARENTAGE.

18 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (2),  
19 A DETERMINATION OF PARENTAGE SHALL NOT BE MODIFIED OR SET ASIDE  
20 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IF:

21 (I) THE INDIVIDUAL NAMED IN THE ORDER ACKNOWLEDGED  
22 PATERNITY KNOWING THAT HE WAS NOT THE FATHER OF THE CHILD;

23 (II) THE CHILD WAS ADOPTED BY THE INDIVIDUAL; OR

24 (III) THE CHILD WAS CONCEIVED BY MEANS OF ASSISTED  
25 REPRODUCTION.

26 (3) IF THE COURT FINDS THAT THE GENETIC TEST RESULTS BASED  
27 ON DNA TESTING CONCLUSIVELY DEMONSTRATE THAT AN INDIVIDUAL

1 NAMED AS THE FATHER IN THE ORDER IS NOT THE BIOLOGICAL PARENT OF  
2 THE CHILD AND THAT THE DAMAGE TO THE PURPORTED FATHER THAT  
3 WOULD RESULT FROM PRESERVING THE DETERMINATION OF PARENTAGE  
4 OUTWEIGHS THE HARM TO THE CHILD THAT MAY RESULT FROM SETTING  
5 ASIDE THE DETERMINATION OF PARENTAGE, THE COURT SHALL MODIFY THE  
6 PROVISIONS OF ANY ORDER RESPECTING CHILD SUPPORT BY TERMINATING  
7 THE CHILD SUPPORT OBLIGATION AS TO INSTALLMENTS ACCRUING  
8 SUBSEQUENT TO THE FILING OF THE MOTION.

9 (4) FOR PURPOSES OF THIS SECTION, "DNA" MEANS  
10 DEOXYRIBONUCLEIC ACID.

11 **SECTION 2.** 14-10-122, Colorado Revised Statutes, is amended  
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **14-10-122. Modification and termination of provisions for**  
14 **maintenance, support, and property disposition - automatic lien.**

15 (6) (a) A PARTY MAY SEEK TO MODIFY OR SET ASIDE A COURT ORDER FOR  
16 CHILD SUPPORT ENTERED PURSUANT TO THIS ARTICLE IF THE PARTY  
17 ESTABLISHES THROUGH THE RESULTS OF A GENETIC TEST BASED ON DNA  
18 TESTING, ADMINISTERED IN ACCORDANCE WITH SECTION 13-25-126,  
19 C.R.S., THE EXCLUSION OF THE PARTY AS THE BIOLOGICAL PARENT OF THE  
20 CHILD FOR WHOSE BENEFIT THE CHILD SUPPORT ORDER WAS ENTERED AND  
21 ESTABLISHES THAT THE DAMAGE TO THE PURPORTED FATHER THAT WOULD  
22 RESULT FROM CONTINUING THE COURT ORDER FOR CHILD SUPPORT  
23 OUTWEIGHS THE HARM TO THE CHILD THAT MAY RESULT FROM  
24 TERMINATING THE COURT ORDER FOR CHILD SUPPORT.

25 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (6),  
26 A COURT ORDER FOR CHILD SUPPORT SHALL NOT BE MODIFIED OR SET  
27 ASIDE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) IF:

1 (I) THE CHILD SUPPORT OBLIGOR ACKNOWLEDGED PATERNITY  
2 KNOWING THAT HE WAS NOT THE FATHER OF THE CHILD;

3 (II) THE CHILD WAS ADOPTED BY THE INDIVIDUAL; OR

4 (III) THE CHILD WAS CONCEIVED BY MEANS OF ASSISTED  
5 REPRODUCTION.

6 (c) IF THE COURT FINDS THAT THE GENETIC TEST RESULTS BASED  
7 ON DNA TESTING CONCLUSIVELY DEMONSTRATE THAT A PARTY IS NOT THE  
8 BIOLOGICAL PARENT OF THE CHILD AND THAT THE DAMAGE TO THE  
9 PURPORTED FATHER THAT WOULD RESULT FROM CONTINUING THE COURT  
10 ORDER FOR CHILD SUPPORT OUTWEIGHS THE HARM TO THE CHILD THAT  
11 MAY RESULT FROM TERMINATING THE COURT ORDER FOR CHILD SUPPORT,  
12 THE COURT SHALL MODIFY THE PROVISIONS OF ANY ORDER RESPECTING  
13 CHILD SUPPORT BY TERMINATING THE CHILD SUPPORT OBLIGATION AS TO  
14 INSTALLMENTS ACCRUING SUBSEQUENT TO THE FILING OF THE MOTION.

15 (d) FOR PURPOSES OF THIS SUBSECTION (6), "DNA" MEANS  
16 DEOXYRIBONUCLEIC ACID.

17 **SECTION 3.** 13-25-126 (1) (a), Colorado Revised Statutes, is  
18 amended to read:

19 **13-25-126. Genetic tests to determine parentage.** (1) (a) In any  
20 action, suit, or proceeding in which the parentage of any child is at issue  
21 OR IN ANY ACTION, SUIT, OR PROCEEDING IN WHICH A PERSON SEEKS TO  
22 MODIFY OR SET ASIDE A DETERMINATION OF PARENTAGE AND AN ORDER  
23 FOR CHILD SUPPORT PURSUANT TO SECTION 19-4-107.3, C.R.S., OR IN ANY  
24 PROCEEDING IN WHICH A PERSON SEEKS TO MODIFY OR SET ASIDE AN  
25 ORDER FOR CHILD SUPPORT PURSUANT TO SECTION 14-10-122 (6), C.R.S.,  
26 upon motion of the court or any of the interested parties, the court shall  
27 order the alleged mother, the child or children, and the alleged father to

1 submit to genetic testing and other appropriate testing of inherited  
2 characteristics, including but not limited to blood and tissue type, for the  
3 purpose of determining probability of parentage. If any party refuses to  
4 submit to these tests, the court may resolve the question of parentage  
5 against such party to enforce its order if the rights of others and the  
6 interests of justice so require.

7           **SECTION 4. Effective date.** This act shall take effect at 12:01  
8 a.m. on the day following the expiration of the ninety-day period after  
9 final adjournment of the general assembly that is allowed for submitting  
10 a referendum petition pursuant to article V, section 1 (3) of the state  
11 constitution (August 4, 2004, if adjournment sine die is on May 5, 2004);  
12 except that, if a referendum petition is filed against this act or an item,  
13 section, or part of this act within such period, then the act, item, section,  
14 or part, if approved by the people, shall take effect on the date of the  
15 official declaration of the vote thereon by proclamation of the governor.