

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 18, 2004  
Date

Committee on Information & Technology.

After consideration on the merits, the Committee recommends the following:

HB04-1083 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute the following:

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

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

9 (2) (a) NOTWITHSTANDING THE PROVISIONS SET FORTH IN SECTION  
10 19-4-107, AN ORDER DETERMINING PARENTAGE PURSUANT TO THIS  
11 ARTICLE SHALL BE MODIFIED OR SET ASIDE IF GENETIC TEST RESULTS  
12 BASED ON DNA TESTING, ADMINISTERED IN ACCORDANCE WITH SECTION  
13 13-25-126, C.R.S., ESTABLISHES THE EXCLUSION OF THE INDIVIDUAL  
14 NAMED AS THE FATHER IN THE ORDER.

15 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (2),  
16 A DETERMINATION OF PARENTAGE SHALL NOT BE MODIFIED OR SET ASIDE

1 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IF:

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

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

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

7 (3) IF THE COURT FINDS THAT THE GENETIC TEST RESULTS BASED  
8 ON DNA TESTING CONCLUSIVELY DEMONSTRATE THAT AN INDIVIDUAL  
9 NAMED AS THE FATHER IN THE ORDER IS NOT THE BIOLOGICAL PARENT OF  
10 THE CHILD, THE COURT SHALL MODIFY THE PROVISIONS OF ANY ORDER  
11 RESPECTING CHILD SUPPORT BY TERMINATING THE CHILD SUPPORT  
12 OBLIGATION AS TO INSTALLMENTS ACCRUING SUBSEQUENT TO THE FILING  
13 OF THE MOTION.

14 (4) FOR PURPOSES OF THIS SECTION, "DNA" MEANS  
15 DEOXYRIBONUCLEIC ACID.

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

18 **14-10-122. Modification and termination of provisions for**  
19 **maintenance, support, and property disposition - automatic lien.**

20 (6) (a) A PARTY MAY SEEK TO MODIFY OR SET ASIDE A COURT ORDER FOR  
21 CHILD SUPPORT ENTERED PURSUANT TO THIS ARTICLE IF THE PARTY  
22 ESTABLISHES THROUGH THE RESULTS OF A GENETIC TEST BASED ON DNA  
23 TESTING, ADMINISTERED IN ACCORDANCE WITH SECTION 13-25-126,  
24 C.R.S., THE EXCLUSION OF THE PARTY AS THE BIOLOGICAL PARENT OF THE  
25 CHILD FOR WHOSE BENEFIT THE CHILD SUPPORT ORDER WAS ENTERED.

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

29 (I) THE CHILD SUPPORT OBLIGOR ACKNOWLEDGED PATERNITY

1 KNOWING THAT HE WAS NOT THE FATHER OF THE CHILD;

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

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

5 (c) IF THE COURT FINDS THAT THE GENETIC TEST RESULTS BASED  
6 ON DNA TESTING CONCLUSIVELY DEMONSTRATE THAT A PARTY IS NOT THE  
7 BIOLOGICAL PARENT OF THE CHILD, THE COURT SHALL MODIFY THE  
8 PROVISIONS OF ANY ORDER RESPECTING CHILD SUPPORT BY TERMINATING  
9 THE CHILD SUPPORT OBLIGATION AS TO INSTALLMENTS ACCRUING  
10 SUBSEQUENT TO THE FILING OF THE MOTION.

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

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

15 **13-25-126. Genetic tests to determine parentage.** (1) (a) In any  
16 action, suit, or proceeding in which the parentage of any child is at issue  
17 OR IN ANY ACTION, SUIT, OR PROCEEDING IN WHICH A PERSON SEEKS TO  
18 MODIFY OR SET ASIDE A DETERMINATION OF PARENTAGE AND AN ORDER  
19 FOR CHILD SUPPORT PURSUANT TO SECTION 19-4-107.3, C.R.S., OR IN ANY  
20 PROCEEDING IN WHICH A PERSON SEEKS TO MODIFY OR SET ASIDE AN  
21 ORDER FOR CHILD SUPPORT PURSUANT TO SECTION 14-10-122 (6), C.R.S.,  
22 upon motion of the court or any of the interested parties, the court shall  
23 order the alleged mother, the child or children, and the alleged father to  
24 submit to genetic testing and other appropriate testing of inherited  
25 characteristics, including but not limited to blood and tissue type, for the  
26 purpose of determining probability of parentage. If any party refuses to  
27 submit to these tests, the court may resolve the question of parentage  
28 against such party to enforce its order if the rights of others and the  
29 interests of justice so require.

30 **SECTION 4. Effective date.** This act shall take effect at 12:01  
31 a.m. on the day following the expiration of the ninety-day period after

1 final adjournment of the general assembly that is allowed for submitting  
2 a referendum petition pursuant to article V, section 1 (3) of the state  
3 constitution (August 4, 2004, if adjournment sine die is on May 5, 2004);  
4 except that, if a referendum petition is filed against this act or an item,  
5 section, or part of this act within such period, then the act, item, section,  
6 or part, if approved by the people, shall take effect on the date of the  
7 official declaration of the vote thereon by proclamation of the governor."

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