

FIRST REGULAR SESSION

# SENATE BILL NO. 141

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SMITH.

Pre-filed December 22, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0866S.011

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## AN ACT

To amend chapter 210, RSMo, by adding thereto one new section relating to paternity determinations.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 210, RSMo, is amended by adding thereto one new  
2 section, to be known as section 210.854, to read as follows:

**210.854. 1. In the event of the entry of a judgment of paternity  
2 and support, a person against whom such a judgment has been entered  
3 may file a petition requesting a circuit court with jurisdiction over the  
4 subject child or children to set aside said judgment in the interests of  
5 justice and upon the grounds set forth in this section. Any such  
6 petition shall be served upon the biological mother and any other legal  
7 guardian or custodian.**

8 **2. The petition shall include an affidavit executed by the  
9 petitioner alleging that evidence exists which was not considered  
10 before entry of judgment and either:**

11 **(1) An allegation that genetic testing was conducted within  
12 ninety days prior to the filing of such petition using DNA methodology  
13 to determine the probability or improbability of paternity, and  
14 performed by an expert as defined in section 210.834. The affidavit  
15 shall also allege that the test results indicate a ninety-nine percent or  
16 greater probability that the person subject to the child support  
17 payment order is not the child's father; or**

18 **(2) A request to the court for an order of genetic paternity  
19 testing using DNA methodology.**

20 **3. The court, after a hearing wherein all interested parties have  
21 been given an opportunity to present evidence and be heard, may order**

22 the relevant parties to submit to genetic paternity testing upon a  
23 finding of probable cause to believe said testing may result in a  
24 determination of non-paternity. The genetic paternity testing costs  
25 shall be paid by the petitioner.

26 4. The court shall grant relief on the petition and enter judgment  
27 setting aside the previous judgment of paternity and support, or  
28 acknowledgment of paternity under section 210.823, extinguish any  
29 existing child support arrearage, and order the department of health  
30 and senior services to modify the child's birth certificate accordingly  
31 upon a finding that the genetic test referred to herein was properly  
32 conducted, accurate and indicates a ninety-nine percent or greater  
33 probability that the person subject to the child support payment order  
34 is not the child's father.

35 5. The provisions of this section shall not apply to grant relief to  
36 the parent of any adopted child.

37 6. A finding under subsection 4 of this section shall constitute a  
38 material mistake of fact under section 210.823.

39 7. Notwithstanding any other provision of law to the contrary,  
40 an action under this section may be brought at any time.

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