

SECOND REGULAR SESSION

# HOUSE BILL NO. 2322

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HUBBARD.

Read 1st time February 29, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5127L.01I

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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 section, to be  
2 known as section 210.854, to read as follows:

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           **3. The court, after a hearing wherein all interested parties have been given an**  
17 **opportunity to present evidence and be heard, may order the relevant parties to submit to**  
18 **genetic paternity testing upon a finding of probable cause to believe said testing may result**  
19 **in a determination of non-paternity. The genetic paternity testing costs shall be paid by**  
20 **the petitioner.**

21           **4. The court shall grant relief on the petition and enter judgment setting aside the**  
22 **previous judgment of paternity and support, or acknowledgment of paternity under section**  
23 **210.823, extinguish any existing child support arrearage, and order the department of**  
24 **health and senior services to modify the child's birth certificate accordingly upon a finding**  
25 **that the genetic test referred to herein was properly conducted, accurate and indicates a**  
26 **ninety-nine percent or greater probability that the person subject to the child support**  
27 **payment order is not the child's father.**

28           **5. The provisions of this section shall not apply to grant relief to the parent of any**  
29 **adopted child.**

30           **6. A finding under subsection 4 of this section shall constitute a material mistake**  
31 **of fact under section 210.823.**

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

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