

1 HB521
2 215119-1
3 By Representative Isbell
4 RFD: Judiciary
5 First Read: 29-MAR-22

SYNOPSIS: Under existing law, a man is presumed to be the father of a child if he and the mother of the child are married to each other and the child is born during the marriage. If the presumed father persists in his status as the legal father of a child, neither the mother nor any other individual may maintain an action to disprove paternity.

This bill would allow the maintenance of an action to disprove a presumed father's paternity of a child if the court determines that: The presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception of the child; the presumed father never openly held the child out as his own or established a significant parental relationship with the child by providing emotional and financial support for the child; and it is in the best interest of the child to allow an action to disprove the presumed father's paternity of the child.

1 This bill would also require a mother of a
2 child to name all putative fathers in an action to
3 disprove paternity.
4

5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to the presumption of paternity; to amend
10 Section 26-17-607, Code of Alabama 1975; to allow the
11 maintenance of an action to disprove a presumed father's
12 paternity of a child in certain circumstances.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 26-17-607, Code of Alabama 1975,
15 is amended to read as follows:

16 "§26-17-607.

17 "(a) Except as otherwise provided in subsection
18 ~~(b)~~(c), a presumed father may bring an action to disprove
19 paternity at any time.

20 "(b) If the presumed father persists in his status
21 as the legal father of a child, neither the mother nor any
22 other individual may maintain an action to disprove paternity-
23 unless the court determines all of the following:

24 "(1) The presumed father and the mother of the child
25 did not cohabit and did not engage in sexual intercourse
26 with each other during the probable time of conception.

1 "(2) The presumed father never openly held the child
2 out as his own and did not establish a significant parental
3 relationship with the child by providing emotional and
4 financial support for the child.

5 "(3) It is in the best interest of the child to
6 allow an action to disprove the presumed father's paternity of
7 the child.

8 ~~"(b) (c)~~ A presumption of paternity under this
9 section may be rebutted in an appropriate action only by clear
10 and convincing evidence. In the event two or more conflicting
11 presumptions arise, that which is founded upon the weightier
12 considerations of public policy and logic, as evidenced by the
13 facts, shall control. The presumption of paternity is rebutted
14 by a court decree establishing paternity of the child by
15 another man.

16 "(d) In any action to disprove presumed paternity
17 pursuant to subsection (b), the mother of the child shall name
18 all putative fathers in a manner to be determined by the court
19 hearing the action."

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.