



Ohio Revised Code

Section 3111.09 Genetic tests - DNA records.

Effective: March 22, 2001

Legislation: Senate Bill 180 - 123rd General Assembly

(A)(1) In any action instituted under sections 3111.01 to 3111.18 of the Revised Code, the court, upon its own motion, may order and, upon the motion of any party to the action, shall order the child's mother, the child, the alleged father, and any other person who is a defendant in the action to submit to genetic tests. Instead of or in addition to genetic testing ordered pursuant to this section, the court may use the following information to determine the existence of a parent and child relationship between the child and the child's mother, the alleged father, or another defendant:

(a) A DNA record of the child's mother, the child, the alleged father, or any other defendant that is stored in the DNA database pursuant to section 109.573 of the Revised Code;

(b) Results of genetic tests conducted on the child, the child's mother, the alleged father, or any other defendant pursuant to former section 3111.21 or 3111.22 or sections 3111.38 to 3111.54 of the Revised Code.

If the court intends to use the information described in division (A)(1)(a) of this section, it shall order the superintendent of the bureau of criminal identification and investigation to disclose the information to the court. If the court intends to use the genetic test results described in division (A)(1)(b) of this section, it shall order the agency that ordered the tests to provide the report of the genetic test results to the court.

(2) If the child support enforcement agency is not made a party to the action, the clerk of the court shall schedule the genetic testing no later than thirty days after the court issues its order. If the agency is made a party to the action, the agency shall schedule the genetic testing in accordance with the rules adopted by the director of job and family services pursuant to section 3111.611 of the Revised Code. If the alleged father of a child brings an action under sections 3111.01 to 3111.18 of the Revised Code and if the mother of the child willfully fails to submit to genetic testing or if the mother is the custodian of the child and willfully fails to submit the child to genetic testing, the court, on the motion of the alleged father, shall issue an order determining the existence of a parent and



child relationship between the father and the child without genetic testing. If the mother or other guardian or custodian of the child brings an action under sections 3111.01 to 3111.18 of the Revised Code and if the alleged father of the child willfully fails to submit himself to genetic testing or, if the alleged father is the custodian of the child and willfully fails to submit the child to genetic testing, the court shall issue an order determining the existence of a parent and child relationship between the father and the child without genetic testing. If a party shows good cause for failing to submit to genetic testing or for failing to submit the child to genetic testing, the court shall not consider the failure to be willful.

(3) Except as provided in division (A)(4) of this section, any fees charged for the tests shall be paid by the party that requests them, unless the custodian of the child is represented by the child support enforcement agency in its role as the agency providing enforcement of child support orders under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, the custodian is a participant in Ohio works first under Chapter 5107. of the Revised Code for the benefit of the child, or the defendant in the action is found to be indigent, in which case the child support enforcement agency shall pay the costs of genetic testing. The child support enforcement agency, within guidelines contained in that federal law, shall use funds received pursuant to Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, to pay the fees charged for the tests.

Except as provided in division (A)(4) of this section, if there is a dispute as to who shall pay the fees charged for genetic testing, the child support enforcement agency shall pay the fees, but neither the court nor the agency shall delay genetic testing due to a dispute as to who shall pay the genetic testing fees. The child support enforcement agency or the person who paid the fees charged for the genetic testing may seek reimbursement for the genetic testing fees from the person against whom the court assesses the costs of the action. Any funds used in accordance with this division by the child support enforcement agency shall be in addition to any other funds that the agency is entitled to receive as a result of any contractual provision for specific funding allocations for the agency between the county, the state, and the federal government.

(4) If, pursuant to former section 3111.21 or 3111.22 or sections 3111.38 to 3111.54 of the Revised Code, the agency has previously conducted genetic tests on the child, child's mother, alleged father, or any other defendant and the current action pursuant to section 3111.01 to 3111.18 of the Revised



Code has been brought to object to the result of those previous tests, the agency shall not be required to pay the fees for conducting genetic tests pursuant to this section on the same persons.

(B)(1) The genetic tests shall be made by qualified examiners who are authorized by the court or the department of job and family services. An examiner conducting a genetic test, upon the completion of the test, shall send a complete report of the test results to the clerk of the court that ordered the test or, if the agency is a party to the action, to the child support enforcement agency of the county in which the court that ordered the test is located.

(2) If a court orders the superintendent of the bureau of criminal identification and investigation to disclose information regarding a DNA record stored in the DNA database pursuant to section 109.573 of the Revised Code, the superintendent shall send the information to the clerk of the court that issued the order or, if the agency is a party to the action, to the child support enforcement agency of the county in which the court that issued the order is located.

(3) If a court orders the child support enforcement agency to provide the report of the genetic test results obtained pursuant to former section 3111.21 or 3111.22 or sections 3111.38 to 3111.54 of the Revised Code, the agency shall send the information to the person or government entity designated by the court that issued the order.

(4) The clerk, agency, or person or government entity under division (B)(3) of this section that receives a report or information pursuant to division (B)(1), (2), or (3) of this section shall mail a copy of the report or information to the attorney of record for each party or, if a party is not represented by an attorney, to the party. The clerk, agency, or person or government entity under division (B)(3) of this section that receives a copy of the report or information shall include with the report or information sent to an attorney of record of a party or a party a notice that the party may object to the admission into evidence of the report or information by filing a written objection as described in division (D) of section 3111.12 of the Revised Code with the court that ordered the tests or ordered the disclosure of the information no later than fourteen days after the report or information was mailed to the attorney of record or to the party. The examiners may be called as witnesses to testify as to their findings. Any party may demand that other qualified examiners perform independent genetic tests under order of the court. The number and qualifications of the independent examiners shall be determined by the court.



(C) Nothing in this section prevents any party to the action from producing other expert evidence on the issue covered by this section, but, if other expert witnesses are called by a party to the action, the fees of these expert witnesses shall be paid by the party calling the witnesses and only ordinary witness fees for these expert witnesses shall be taxed as costs in the action.

(D) If the court finds that the conclusions of all the examiners are that the alleged father is not the father of the child, the court shall enter judgment that the alleged father is not the father of the child. If the examiners disagree in their findings or conclusions, the court shall determine the father of the child based upon all the evidence.

(E) As used in sections 3111.01 to 3111.85 of the Revised Code:

(1) "Genetic tests" and "genetic testing" mean either of the following:

(a) Tissue or blood tests, including tests that identify the presence or absence of common blood group antigens, the red blood cell antigens, human lymphocyte antigens, serum enzymes, serum proteins, or genetic markers;

(b) Deoxyribonucleic acid typing of blood or buccal cell samples.

"Genetic test" and "genetic testing" may include the typing and comparison of deoxyribonucleic acid derived from the blood of one individual and buccal cells of another.

(2) "DNA record" and "DNA database" have the same meanings as in section 109.573 of the Revised Code.