



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB6259

Introduced 2/11/2010, by Rep. LaShawn K. Ford

#### SYNOPSIS AS INTRODUCED:

750 ILCS 45/29 new

Amends the Illinois Parentage Act of 1984. Requires the court to vacate a child support order entered under the Act if the court finds, by clear and convincing evidence, that the moving party is not the biological father of the child who is the subject of the support order and that the obligee maliciously misrepresented the paternity of the child to the obligor. Requires the obligor to file the motion to vacate the support order within 2 years after the discovery of evidence that he is not the biological father of the child. Permits the obligor to bring an action against the obligee or the true biological father of the child to obtain restitution for child support previously paid pursuant to the order, if the court vacates the support order. Provides that any judgment obtained in an action for restitution may not be enforced against the mother until after the child for whom the vacated support order was entered is 18 years old or is otherwise emancipated. Provides that any wage deduction or garnishment action taken to enforce a judgment for restitution against the true biological father shall stand behind any withholding order entered against the true biological father for the support of the child for whom the vacated support order had been entered. Provides that if the support order is vacated, the court shall also vacate the judgment or adjudication of paternity under which the support order was entered.

LRB096 19471 AJO 34863 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Parentage Act of 1984 is amended by  
5 adding Section 29 as follows:

6 (750 ILCS 45/29 new)

7 Sec. 29. Paternity fraud.

8 (a) Notwithstanding any provisions of this Act to the  
9 contrary, the court shall vacate a support order entered  
10 pursuant to this Act if the court finds, by clear and  
11 convincing evidence, upon motion by the obligor that (1) the  
12 obligor is not the biological father of the child who is the  
13 subject of the support order, and (2) the obligee maliciously  
14 misrepresented the paternity of the child to the obligor.

15 (b) The obligor shall file a motion to vacate the support  
16 order within 2 years after the discovery of evidence that he is  
17 not the biological father of the child.

18 (c) If the support order is vacated, the obligor may bring  
19 an action against the obligee or the true biological father of  
20 the child to obtain restitution for up to 5 years of child  
21 support previously paid pursuant to the support order. Any  
22 judgment obtained in an action for restitution may not be  
23 enforced against the mother until after the child for whom the

1 vacated support order had been entered is 18 years old or is  
2 otherwise emancipated. Any wage deduction or garnishment  
3 action taken to enforce a judgment for restitution obtained  
4 against the true biological father shall stand behind any  
5 withholding order entered against the true biological father,  
6 pursuant to Section 20 of this Act, for the support of the  
7 child for whom the vacated support order had been entered. The  
8 relief provided in this Section shall not limit any relief  
9 otherwise available to the obligor.

10 (d) If the support order is vacated, the court shall also  
11 vacate the judgment or adjudication of paternity under which  
12 the support order was entered.