

Section 5. This act shall take effect immediately.

Act effective
immediately.

APPROVED—The 12th day of July, A. D. 1961.

DAVID L. LAWRENCE

No. 286

AN ACT

Authorizing the court to order the parties under certain circumstances to submit to blood grouping tests under certain conditions and the effect thereof.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Uniform Act on
Blood Tests to
Determine
Paternity.

Section 1. Authority for Test.—In a civil action in which paternity parentage or identity of a child is a relevant fact, the court upon its own initiative or upon suggestion made by or on behalf of any person whose blood is involved may, or upon motion of any party to the action made at a time so as not to delay the proceedings unduly, shall order the mother, child and alleged father to submit to blood tests. If any party refuses to submit to such test, the court may resolve the question of paternity, parentage or identity of a child against such party, or enforce its order if the rights of others and the interests of justice so require.

Section 2. Selection of Experts.—The tests shall be made by experts qualified as examiners of blood types, who shall be appointed by the court. The experts shall be called by the court as witnesses to testify to their findings and shall be subject to cross-examination by the parties. Any party or person at whose suggestion the tests have been ordered may demand that other experts qualified as examiners of blood types perform independent tests under order of court, the results of which may be offered in evidence. The number and qualifications of such experts shall be determined by the court.

Section 3. Compensation of Expert Witnesses.—The compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid as the court shall order. The court may order that it be paid by the parties in such proportions and at such times as it shall prescribe or that the proportion of any party be paid by the county and that after payment by the parties or the county, or both, all or part or none of it be taxed as costs in the action. The fee of an expert witness called by a party but not appointed by the court, shall be paid by the party calling him, but shall not be taxed as costs in the action.

Section 4. Effect of Test Results.—If the court finds that the conclusions of all the experts as disclosed by the evidence based upon the tests are that the alleged father is not the father of the child, the question of paternity, parentage or identity of a child shall be resolved accordingly. If the experts disagree in their findings or conclusions, the question shall be submitted upon all the evidence.

Section 5. Effect on Presumption of Legitimacy.—The presumption of legitimacy of a child born during wedlock is overcome if the court finds that the conclusions of all the experts as disclosed by the evidence based upon the tests show that the husband is not the father of the child.

Section 6. Applicability to Criminal Actions.—This act shall apply to criminal cases subject to the following limitations and provisions: (a) an order for the tests shall be made only upon application of a party or on the court's initiative, (b) the compensation of the experts shall be paid by the county under order of court, (c) the court may direct a verdict of acquittal upon the conclusions of all the experts under the provisions of section 4, otherwise the case shall be submitted for determination upon all the evidence, (d) the refusal of a defendant to submit to such test may not be used in evidence against said defendant.

Section 7. Uniformity of Interpretation.—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 8. Severability Clause.—If any part of this act is declared invalid, the remaining portion shall continue in full force and effect and shall be construed as being the entire act.

Section 9. Short Title.—This act shall be known and may be cited as the "Uniform Act on Blood Tests to Determine Paternity."

Section 10. Repealer.—The act of May 24, 1951 (P. L. 402), entitled "An act authorizing the court in any proceeding to establish paternity, to order the parties therein to submit to blood grouping tests, and prescribing the conditions under which such evidence may be admitted," is repealed.

Section 11. Effective Date.—This act shall take effect immediately.

APPROVED—The 13th day of July, A. D. 1961.

DAVID L. LAWRENCE