

HOUSE BILL NO. 448

1/23 Introduced
1/23 Referred to Judiciary
1/30 Hearing
2/18 Adverse Committee Report
2/19 Bill Killed

1 HOUSE BILL NO. 448

2 INTRODUCED BY J. Brown

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A PRESUMPTION
6 OF PARENTAGE WHENEVER BLOOD TEST RESULTS INDICATE A HIGH
7 PROBABILITY OF PATERNITY; AMENDING SECTION 40-6-112, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 40-6-112, MCA, is amended to read:

11 "40-6-112. Blood tests. (1) The court may, and upon
12 request of a party shall, require the child, mother, or
13 alleged father to submit to one or more blood tests. If a
14 blood test is ordered, the court shall direct that inherited
15 characteristics, including but not limited to blood and
16 tissue type, be determined by appropriate testing
17 procedures. The tests shall be performed by an expert
18 qualified as an examiner of blood types, appointed by the
19 court.

20 (2) ~~The court, upon reasonable request by a party,~~
21 ~~shall order that independent tests be performed by other~~
22 ~~experts qualified as examiners of blood types. If the~~
23 results of the tests or the expert analysis of inherited
24 characteristics is disputed by any party, the court, upon
25 the reasonable request of that party, shall order that

1 independent tests be performed by other experts qualified as
2 examiners of blood types.

3 (3) In all cases the court shall determine the number
4 and qualifications of the experts.

5 (4) The chain of custody of blood specimens taken
6 under this section may be established through verified
7 documentation of each change of custody. Such documentation
8 is prima facie evidence of the chain of custody.

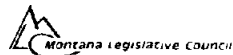
9 (5) An objection to the tests performed on the blood
10 specimens, the results thereof, or the chain of custody of
11 blood specimens must be made prior to trial.

12 (6) The results of the tests have the following
13 effect:

14 (a) If the court finds that the conclusion of the
15 experts, as disclosed by the evidence based upon the test,
16 is that the alleged parent is not the parent of the child,
17 the question of parentage must be resolved accordingly.

18 (b) If the experts conclude that blood tests show the
19 alleged parent is not excluded and that the probability of
20 the alleged parent's parentage is less than 97%, this
21 evidence must be admitted by the court and weighed with
22 other competent evidence of paternity.

23 (c) If the experts conclude the blood tests show that
24 the alleged parent is not excluded and that the probability
25 of the alleged parent's parentage is 97% or higher, the



1 alleged parent is presumed to be the parent, and this
2 evidence must be admitted.

3 (d) The presumptions of paternity under 40-6-105 are
4 overcome if the court finds that the conclusion of the
5 experts, as disclosed by the evidence based upon the tests,
6 shows that the presumed father is not the parent of the
7 child."

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