

March 12, 2007

**H 597. RELIEF FROM CHILD SUPPORT ORDER.** Filed 3/12/07. *ALLOWING RELIEF FROM A CHILD SUPPORT ORDER WHEN THE OBLIGOR IS NOT THE CHILD'S FATHER.* Enacts new GS 50-13.13 providing that a person who is required, as the father of a child (moving party), to pay child support via an order entered by a NC court and subject to modification by a NC court, may file a motion seeking not to pay that child support on the grounds that the moving party is not the child's father. Provides that the court may at its discretion appoint a guardian ad litem to represent the interest of the child in the proceedings. Directs that the court, upon filing of a motion by the father and a finding of good cause to believe that the moving party is not the biological father of the child, order genetic testing of the child, mother and the moving party. Provides that GS 8-50.1(b1) dealing with competency of blood tests and taxing of costs, is to govern admissibility, weight, payment, and taxing of costs related to the genetic testing. If a party fails to comply with the order for genetic testing, the court may hold the party in civil or criminal contempt and/or impose sanctions under GS 1A-1, Rule 37 of the NC Rules of Civil Procedure (allowing for sanctions that include paying attorney's fees for the opposing party). Provides that the moving party's child support obligation continues while the motion is pending before the court. Specifies that the court, sitting without a jury, may grant relief from obligations under a child support order to a moving party who meets his burden of proof by clear and convincing evidence. Directs that if the court determines that the moving party is entitled to relief, it is to enter an order that includes written findings of fact and conclusions of law and that grants relief to the moving party. Delineates the types of relief that the court may grant. Directs that if the child was born in NC and the moving party is named as the father on the birth certificate, that the court order the clerk of superior court to notify the State Registrar to amend the birth certificate under GS 130A-118(b)(2). Provides that a moving party who receives relief under this act may apply for modification or relief from any judgment or order involving the moving party's paternity or the child to the extent otherwise provided by law. Effective January 1, 2008.

**Intro. by Cleveland.**

GS 50

May 22, 2007

**H 597. RELIEF FROM INCORRECT PATERNITY DETERMIN (NEW).** Filed 3/12/07. House committee substitute makes the following changes to 1st edition. Modifies proposed new GS 50-13.13 to (1) require (was, authorize) the court to appoint a guardian ad litem to represent the interest of the child, and (2) direct the court to award attorney's fees to the prevailing party if the person filing a motion for relief under this section did not act in good faith. Provides that if the court determines that the person filing the motion has satisfied the requirements of the section, the court may dismiss the action to overcome paternity and affirm the original paternity adjudication, if the court makes appropriate findings of facts and conclusions of law determining that it is in the best interest of the child to do so.