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# OHIO LEGISLATIVE SERVICE COMMISSION

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Office

**H.B. 256**  
**136<sup>th</sup> General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Williams and LaRe

Chenwei Zhang, Attorney

### SUMMARY

- Limits to a rebuttable presumption the existing law designation of an unmarried female who gives birth to a child as the sole residential parent and legal custodian of the child.
- Declares that presumption to be rebutted if the child's natural father establishes paternity or upon the issuance of a lawfully executed birth certificate that includes the father's name.
- Applies all of the following without a judicial proceeding upon the rebuttal of a presumption:
  - Both parents are equal residential parents with equal rights and responsibilities as it relates to parenting time;
  - The exchange of physical custody and parenting time schedule must be allocated upon agreement of the mother and father;
  - The mother remains the sole legal custodian of the child.
- Allows either parent to initiate a court proceeding if they do not agree on an equal allocation of physical custody or either parent fails to exercise that parent's rights and responsibilities.
- Prohibits an unmarried male who would otherwise be eligible to rebut a presumption under the bill from being designated as a residential parent or legal custodian of a child if he has been convicted of or pleaded guilty to rape or sexual battery and has been declared to be the parent of the resulting child.

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## DETAILED ANALYSIS

### Custody for unwed parents

The bill makes changes to the law regarding child custody for unwed parents. Under existing law, an unmarried female who gives birth to a child is the sole residential parent and legal custodian of that child until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian. The bill establishes this designation as a rebuttable presumption.<sup>1</sup> The presumption is rebutted if the child's natural father establishes paternity or upon the issuance of a lawfully executed birth certificate that includes the father's name.<sup>2</sup> Under existing law, unchanged by the bill, paternity may be established by executing an acknowledgment of paternity or through an administrative or judicial determination of parentage.<sup>3</sup> The bill requires that full faith and credit be given to a birth certificate or paternity determination that was made in accordance with the laws of another state.<sup>4</sup>

Upon the rebuttal of a presumption, the bill requires that all of the following apply without a judicial proceeding:

- Both parents are equal residential parents with equal rights and responsibilities as it relates to parenting time with the child;
- The exchange of physical custody and parenting time schedule must be allocated upon agreement of the mother and father of the child;
- The mother remains the sole legal custodian of the child.<sup>5</sup>

The bill allows either parent to file a court proceeding to determine the allocation of parental rights and responsibilities if the parents do not agree on an equal allocation of physical custody or if either parent fails to exercise that parent's rights and responsibilities as described in the bullet points above.<sup>6</sup> If filed, the court must determine whether either parent failed to undertake, or obstructed the other parent from exercising, those rights and responsibilities. If the court finds this to be the case with either parent, the court must consider this finding in its allocation of parental rights and responsibilities, in addition to all other requirements and considerations under existing law.<sup>7</sup>

Finally, the bill creates an exception to the rights and responsibilities that stem from a rebutted presumption. Under existing law, an unmarried female who has been convicted of or

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<sup>1</sup> R.C. 3109.042(A).

<sup>2</sup> R.C. 3109.042(B)(1).

<sup>3</sup> R.C. 3111.02, not in the bill.

<sup>4</sup> R.C. 3109.042(C).

<sup>5</sup> R.C. 3109.042(B)(2).

<sup>6</sup> R.C. 3109.042(B)(3).

<sup>7</sup> R.C. 3109.042(B)(4) and (5).

pleaded guilty to rape or sexual battery and has been declared to be the parent of a child born as a result of that rape or sexual battery cannot be the residential parent and legal custodian of that child. The bill applies this prohibition to an unmarried male who would otherwise be eligible to rebut a presumption under the bill.

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## HISTORY

Action	Date
Introduced	05-06-25

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