



# **BILL NO. 99**

*Government Bill*

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*1st Session, 59th General Assembly  
Nova Scotia  
53 Elizabeth II, 2004*

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## **An Act to Amend Chapter 494 of the Revised Statutes, 1989, the Vital Statistics Act**

CHAPTER 48  
ACTS OF 2004

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
OCTOBER 18, 2004**

The Honourable Barry Barnet  
*Minister of Service Nova Scotia and Municipal Relations*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 494  
of the Revised Statutes, 1989,  
the Vital Statistics Act**

Be it enacted by the Governor and Assembly as follows:

**1 Clauses 4(2)(a) to (c) of Chapter 494 of the Revised Statutes, 1989, the *Vital Statistics Act*, are repealed and the following clauses substituted:**

- (a) if the parents of the child are
  - (i) married to each other, or
  - (ii) not married to each other but have filed a statutory declaration in accordance with subsection (5) or (7) or have filed a declaratory order made under Section 11A,

the mother or the father of the child;

- (b) if the parents of the child are not married to each other and the father of the child is

- (i) incapable,
- (ii) not acknowledged by the mother in accordance with subsections (5) or (7) or identified in a declaratory order made under Section 11A, or
- (iii) not known to the mother,

the mother of the child;

- (c) if the persons referred to in clauses (a) or (b) are incapable, the person who stands in the place of the parents of the child;

**2 Chapter 494 is further amended by adding immediately after Section 11 the following Sections:**

11A (1) In this Section and Sections 11B and 11C, “court” means the Supreme Court of Nova Scotia (Family Division) or the Family Court of Nova Scotia as the case may be.

(2) The court may, on application by any person having an interest in the paternity of a child, make a declaratory order with respect to the paternity of the child.

(3) Where the court makes an order pursuant to subsection (2), the court may order that

- (a) the name and particulars of the father of the child be registered or removed from the register, as the case may be; and

- (b) the surname of the child be registered in accordance with subsection (8) of Section 4.

- (4) An order made pursuant to subsection (3) must contain

- (a) the full name of the father of the child;
- (b) the date and place of birth of the father of the child; and
- (c) sufficient particulars of the birth of the child to identify the birth record that is to be changed.

(5) Upon receipt of an order made pursuant to subsection (3), the Registrar shall take whatever action is required under that subsection.

11B (1) Where an application has been made for an order with respect to the paternity of a child, the court may order genetic testing by a duly qualified medical practitioner or other person designated in the order to determine the biological father of the child.

(2) Unless the court otherwise orders, the cost of genetic testing carried out pursuant to subsection (1) shall be paid by the party bringing the application.

11C Notwithstanding any proof of the paternity of a child, the court may decline to make an order pursuant to subsection (2) or (3) of Section 11A where the court considers it in the best interest of the child.

**3** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

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