

4 tained herein, shall be guilty of a misdemeanor and upon conviction
5 shall be punished accordingly.

1 **SEC. 16. Repeal.** That sections thirty-six hundred sixty-two
2 (3662), thirty-six hundred sixty-three (3663), thirty-six hundred
3 sixty-four (3664), thirty-six hundred sixty-five (3665), thirty-six hun-
4 dred sixty-nine (3669), thirty-six hundred seventy (3670), thirty-six
5 hundred seventy-two (3672), thirty-six hundred seventy-three
6 (3673), thirty-six hundred seventy-four (3674), thirty-six hundred
7 seventy-five (3675), and thirty-six hundred eighty-four (3684) of the
8 code, 1924, be and the same are hereby repealed.

Approved March 28, A. D. 1925.

CHAPTER 81

PATERNITY

S. F. 134

AN ACT to repeal sections twelve thousand six hundred fifty-eight (12658) to twelve thousand six hundred sixty-seven (12667), both inclusive, code, 1924, relating to children born out of wedlock and to enact a substitute therefor, being an act with reference to proceedings to establish paternity.

Be it enacted by the General Assembly of the State of Iowa:

1 **SECTION 1. Obligation of parents.** The parents of a child born out
2 of wedlock and not legitimized (in this act referred to as "the child")
3 owe the child necessary maintenance, education and support. They
4 are also liable for the child's funeral expenses. The father is also
5 liable to pay the expense of the mother's pregnancy and confinement.
6 The obligation of the parent to support the child under the laws for
7 the support of poor relatives applies to children born out of wedlock.

1 **SEC. 2. Recovery by mother from father.** The mother may recover
2 from the father a reasonable share of the necessary support of the
3 child. In the absence of a previous demand in writing (served per-
4 sonally or by registered letter addressed to the father at his last
5 known residence or in the manner provided for service of original
6 notices) not more than two years' support furnished prior to the
7 bringing of the action may be recovered.

1 **SEC. 3. Recovery by others than mother.** The obligation of the
2 father as hereby provided creates also a cause of action on behalf of
3 the legal representative of the mother, or on behalf of third persons
4 furnishing support or defraying the reasonable expenses thereof,
5 where paternity has been judicially established by proceedings brought
6 by the mother or by or on behalf of the child or by the authorities
7 charged with its support, or where paternity has been acknowledged
8 by the father in writing or by the part performance of the obligations
9 imposed upon him.

1 **SEC. 4. Discharge of father's obligation.** The obligation of the

2 father other than that under the laws providing for the support of
3 poor relatives is discharged by complying with a judicial decree for
4 support or with the terms of a judicially approved settlement. The
5 legal adoption of the child into another family discharges the obliga-
6 tion for the period subsequent to the adoption.

1 **SEC. 5. Liability of the father's estate.** The obligation of the
2 father, when his paternity has been judicially established in his life
3 time, or has been acknowledged by him in writing or by the part
4 performance of his obligations, is enforceable against his estate in
5 such an amount as the court may determine, having regard to the age
6 of the child, the ability of the mother to support it, the amount of
7 property left by the father, the number, age, and financial condition
8 of the lawful issue, if any, and the rights of the widow, if any. The
9 court may direct the discharge of the obligation by periodical pay-
10 ments or by the payment of a lump sum.

1 **SEC. 6. Non-exclusiveness.** Proceedings to establish paternity and
2 to compel support by the father may be brought in accordance with
3 the provisions of this act. They shall not be exclusive of other pro-
4 ceedings that may be available on principles of law and equity.

1 **SEC. 7. Complainants.** The proceedings may be brought by the
2 mother, or other interested person or if the child is or is likely to be
3 a public charge, by the authorities charged with its support. After
4 the death of the mother or in case of her disability, it may also be
5 brought by the child acting through its guardian or next friend.

1 **SEC. 8. Time of bringing complaint.** The proceedings may be in-
2 stituted during the pregnancy of the mother or after the birth of the
3 child, but, except with the consent of the person charged with being
4 the father, the trial shall not be had until after the birth of the child.

1 **SEC. 9. Jurisdiction.** The proceedings shall be entitled in the name
2 of the state against the defendant and shall be brought in the district
3 court in the county in which the alleged father is permanently or
4 temporarily resident, or in which the mother or the child resides or
5 is found. It is not a bar to the jurisdiction of the court, that the
6 complaining mother or child resides in another state.

1 **SEC. 10. Complaint—where brought.** The complaint may be made
2 to any judge or magistrate having power to commit for trial.

1 **SEC. 11. Form of complaint.** The complaint may be made in writ-
2 ing, or oral and in the presence of the complainant reduced to writing
3 by the judge or magistrate or the clerk of the court. It shall be
4 verified by oath or affirmation of the complainant.

1 **SEC. 12. Substance of complaint.** The complainant shall charge the
2 person named as defendant with being the father of the child and
3 demand that he be brought before the judge or magistrate to answer
4 the charge.

1 **SEC. 13. Process.** The judge or magistrate shall issue his warrant
2 for the apprehension of the defendant, directed to any officer in the
3 state authorized to execute warrants, and such warrant may be exe-
4 cuted in any part of the state. With the consent of the complainant,

5 an original notice may be issued in the first instance as in other civil
6 cases, instead of a warrant, which original notice shall be served as
7 in ordinary action.

1 **SEC. 14. Lien and attachment created.** From the time of the filing
2 of such complaint, a lien shall be created upon the real property of
3 the accused in the county where the action is pending for the payment
4 of any money and the performance of any order adjudged by the
5 proper court. The district judge may order an attachment to issue
6 thereon without bond, which order shall specify the amount of prop-
7 erty to be seized thereunder, and may be revoked at any time by such
8 judge or the district court on a showing made to either for a revoca-
9 tion of the same, and on such terms as such court or judge may deem
10 proper in the premises.

1 **SEC. 15. Preliminary hearing.** Upon the return of the warrant, or
2 upon return of the original notice showing service on the defendant,
3 the judge or magistrate before whom the complaint was made, or, in
4 his absence, any other judge or magistrate having power to commit
5 shall proceed to examine the complainant and any other witnesses
6 and receive any other evidence that may be produced, touching the
7 charge. The defendant shall have the right to be present at the
8 examination and to controvert such charges, if he so desires. The
9 examination shall be reduced to writing.

1 **SEC. 16. Result of preliminary hearing.** If the examination fails
2 to show probable cause the defendant shall be discharged without
3 prejudice to further proceedings. If the examination shows probable
4 cause the judge or magistrate shall bind the defendant in bond or
5 recognizance, with sufficient security, to appear at the next term of
6 the district court to be held in the county. On neglect or refusal to
7 furnish such security he shall commit the defendant to jail to be
8 held to answer the complaint. The warrant, the examination reduced
9 to writing, and the security, shall be returned to the court.

1 **SEC. 17. Continuance of trial.** If the child is not born at the time
2 set for the trial, the case shall, unless the defendant consents to trial,
3 be continued until the child is born, and the defendant shall remain
4 bound or held until trial.

1 **SEC. 18. Trial.** The trial shall be by jury, if either party demands
2 a jury, otherwise by the court, and shall be conducted as in other civil
3 cases. The county attorney, on being notified of the facts justifying
4 a complaint as provided in this chapter, or of the filing of such com-
5 plaint, shall prosecute the matter in behalf of the complainant. Unless
6 objection is raised by either party to the action the judge shall ex-
7 clude from the hearing all persons except the employees of the court,
8 witnesses and immediate relatives of the parties involved.

1 **SEC. 19. Absence of defendant.** If the defendant fails to appear,
2 the security for his appearance shall be forfeited and shall be applied
3 on account of the payment of the judgment, but the trial shall pro-
4 ceed as if he were present, and the court shall upon the findings of
5 the judge or the verdict of the jury make such orders as if the de-
6 fendant were in court.

1 **SEC. 20. Effect of death or absence or insanity of mother.** If after

2 the complaint the mother dies or becomes insane or cannot be found
3 within the jurisdiction, the proceeding does not abate, but the child
4 shall be substituted as complainant. The testimony of the mother
5 taken at the preliminary hearing, and her deposition taken as in other
6 civil cases, may in any such case be read as evidence and in all cases
7 shall be read as evidence if demanded by the defendant.

1 **SEC. 21. Death of defendant.** In case of the death of the defend-
2 ant, after the preliminary hearing, the action may be prosecuted
3 against the personal representative of the deceased with like effects
4 as if he were living, subject as regards the measure of support to the
5 provision of section 5 except that no arrest of such personal repre-
6 sentative shall take place or bond be required of him.

1 **SEC. 22. Finding for defendant.** If the verdict of the jury at the
2 trial or the finding of the court be in favor of the defendant the costs
3 of the action shall be paid by the county. If there be motion for a
4 new trial, he shall be held until such motion be disposed of; and if a
5 new trial is granted, the same course shall be pursued as in case of a
6 continuance.

1 **SEC. 23. Judgment.** If the findings or verdict be against the de-
2 fendant, the court shall give judgment against him declaring paternity
3 and for support of the child. The judgment shall be for annual
4 amounts, equal or varying, having regard to the obligation of the
5 father under section 1, as the court directs, until the child reaches
6 the age of sixteen years. The payments may be required to be made
7 at such periods or intervals as the court directs. In addition to pro-
8 viding for support, the judgment may also provide for the payment
9 of the necessary expenses incurred by or for the mother in connection
10 with the birth of the child.

1 **SEC. 24. Payment to trustees.** The court may require the payment
2 to be made to the mother, or to some person or corporation to be
3 designated by the court as trustee. The payments shall be directed
4 to be made to a trustee if the mother does not reside within the juris-
5 diction of the court. The trustee shall report to the court annually,
6 or oftener as directed by the court, the amounts received and paid over.

1 **SEC. 25. Security, commitment, probation.** The court may require
2 the father to give security by bond with sureties, for the payment of
3 the judgment. In default of such security, when required, the court
4 may commit him to jail. After one year the person so committed
5 may be discharged but his liability to pay the judgment shall not
6 thereby be affected. Instead of committing the father to jail, or as
7 a condition of his release from jail, the court may commit him to the
8 custody of the probation officer or other proper person selected by
9 the court, upon such terms regarding payments and personal reports,
10 as the court may direct. Upon violation of the terms imposed, the
11 court may commit or recommit the father to jail.

1 **SEC. 26. Enforcement on default.** Where security is given and
2 default is made in any payment, the court shall cite the parties bound
3 by the security requiring them to show cause why judgment should
4 not be given against them and execution issue thereon. If the amount
5 due and unpaid be not paid before the return day of the citation, and

6 no cause be shown to the contrary, judgment shall be rendered against
7 those served with the citation for the amount due and unpaid together
8 with costs, and execution shall issue therefor saving all remedies upon
9 the bond for future defaults. The judgment shall be enforceable as
10 other judgments.

1 **SEC. 27. Contempt process.** The court also has power, on default
2 as aforesaid, to adjudge the father in contempt and to order him com-
3 mitted to jail in the same manner and with the same powers as in case
4 of commitment for default in giving security. The commitment of
5 the father shall not operate to stay execution upon the judgment on
6 the bond.

1 **SEC. 28. Desertion statute applicable.** The provisions of chapter
2 five hundred ninety-eight (598), code, 1924, relating to desertion and
3 abandonment of children shall have the same force and effect in cases
4 of illegitimacy where paternity has been judicially established, or has
5 been acknowledged by the father in writing or by the furnishing of
6 support, as in cases of children born in wedlock.

1 **SEC. 29. Agreement or compromise.** An agreement or compromise
2 made by the mother or child or by some authorized person on their
3 behalf with the father concerning the support of the child shall be
4 binding upon the mother and child only when adequate provision is
5 fully secured by payment or otherwise and when approved by a court
6 having jurisdiction to compel support of the child. The performance
7 of the agreement or compromise, when so approved, shall bar other
8 remedies of the mother or child for the support of the child.

1 **SEC. 30. Continuing jurisdiction.** The court has continuing juris-
2 diction over proceedings brought to compel support and to increase or
3 decrease the amount thereof until the judgment of the court has been
4 completely satisfied, and also has continuing jurisdiction to determine
5 the custody in accordance with the interests of the child.

1 **SEC. 31. Probation.** Upon a prosecution hereunder, or entry of a
2 plea of guilty or after conviction, the court, instead of imposing sen-
3 tence or as a condition of his release, may commit him to the custody
4 of a probation officer or other proper person, upon such terms as to
5 payment of support to or on behalf of the mother or child and as to
6 personal reports, as the court may direct. Upon violation of the terms
7 imposed, the court may proceed to impose the sentence and commit
8 or recommit in accordance with the sentence.

1 **SEC. 32. Concurrence of remedies.** A criminal prosecution shall
2 not be a bar to, or be barred by, civil proceedings to compel support;
3 but money paid toward the support of the child under the provisions
4 of section 31 shall be allowed for and accredited in determining or
5 enforcing any civil liability.

1 **SEC. 33. Limitation of actions.** Proceedings to enforce the obliga-
2 tion of the father shall not be brought after the lapse of more than
3 two years from the birth of the child, unless paternity has been judi-
4 cially established, or has been acknowledged by the father in writing
5 or by the furnishing of support.

1 **SEC. 34. Judgment of other state.** The judgment of the court of

2 another state rendered in proceedings to compel support of a child
3 born out of wedlock, and directing payment either of a fixed sum or
4 of sums payable from time to time, may be sued upon in this state and
5 made a domestic judgment so far as not inconsistent with the laws
6 of this state, and the same remedies may thereupon be had upon such
7 judgment as if it had been recovered originally in this state.

1 **SEC. 35. Reference in relation to mother and child.** In all records,
2 certificates or other papers hereafter made or executed, other than
3 birth records and certificates or records of judicial proceedings in
4 which the question of birth out of wedlock is at issue, requiring a
5 declaration by or notice to the mother of a child born out of wedlock,
6 it shall be sufficient for all purposes to refer to the mother as the
7 parent having the sole custody of the child or to the child as being
8 in the sole custody of the mother and no explicit reference shall be
9 made to illegitimacy, and the term natural shall be deemed equivalent
10 to the term illegitimate when referring to parentage or birth out of
11 wedlock.

1 **SEC. 36. Report to registrar of vital statistics.** Upon the entry of
2 a judgment determining the paternity of an illegitimate child the clerk
3 of the district court shall notify in writing the state registrar of vital
4 statistics of the name of the person against whom such judgment has
5 been entered, together with such other facts disclosed by his records
6 as may assist in identifying the record of the birth of the child as the
7 same may appear in the office of said registrar. If such judgment
8 shall thereafter be vacated that fact shall be reported by the clerk in
9 the same manner.

1 **SEC. 37. Operation.** This act applies to all cases of birth out of
2 wedlock where birth occurs after this act takes effect, except that
3 section 35 applies to all cases occurring after this act takes effect.

1 **SEC. 38. Repeal.** That sections twelve thousand six hundred fifty-
2 eight (12658) to twelve thousand six hundred sixty-seven (12667),
3 both inclusive, code of 1924, be and the same are hereby repealed.

Approved April 2, A. D. 1925.