

Judiciary 3/14, Pass per 3283 4/4 (p. 932)

SENATE FILE 217

Judiciary  
Doderer, Chairperson  
Shaw  
P. Hill

3/18

FILED MAR 11 1977

SENATE FILE 217

By RUSH

*See Judiciary 4/12*

Senate File 217  
Judiciary and Law  
Enforcement  
Gentleman, chair  
Clark of Cerro Gordo  
Connors

Passed Senate, Date 4-5-77 (p. 932) Passed House, Date 5-12-78 (p. 2662)  
Vote: Ayes 45 Nays 0 Vote: Ayes 90 Nays 0  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act to clarify the responsibilities of parents to  
2 children.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

*be it struck a*

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S.F. 217

SENATE FILE 217

S-3283

1 Amend Senate File 217, page 1, by striking line  
2 13.

S-3283 FILED - Adopt 4/5 (p. 923)  
APRIL 4, 1977

BY COMMITTEE ON JUDICIARY  
GENE W. GLENN, Chairperson

1 Section 1. Chapter six hundred seventy-five (675), Code  
2 1977, is amended by adding the following new section:

3 NEW SECTION. For the purposes of this chapter, "child"  
4 means a person less than eighteen years of age.

5 Sec. 2. Section six hundred seventy-five point twenty-  
6 five (675.25), Code 1977, is amended to read as follows:

7 675.25 FORM OF JUDGMENT. The judgment shall be for annual  
8 amounts, equal or varying, having regard to the obligation  
9 of the father under section 675.1, as the court directs, until  
10 the child reaches the age of ~~sixteen~~ eighteen years. The  
11 payments may be required to be made at such periods or  
12 intervals as the court directs.

13 Sec. 3. This Act is effective January 1, 1978.

14 EXPLANATION

15 This bill establishes that a parent's responsibility to  
16 support a child under the provisions of chapter 675 extends  
17 until the child reaches the age of eighteen.

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LSB 943S  
mr/rh/8A

HOUSE AMENDMENT TO SENATE FILE 217

S-5932

1 Amend Senate File 217 as amended and passed by  
2 the Senate as follows:

3 1. By striking all after the enacting clause and  
4 inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. DEFINITIONS. As used  
6 in this Act:

7 1. "Child" means a person less than eighteen years  
8 of age.

9 2. "Parent and child relationship" means the legal  
10 relationship existing between a child and his or her  
11 natural or adoptive parents incident to which the  
12 law confers or imposes rights, privileges, duties,  
13 and obligations. It includes the mother and child  
14 relationship and the father and child relationship.

15 3. "Physician" means a person licensed by this  
16 state to practice medicine and surgery, osteopathy,  
17 or osteopathic medicine and surgery.

18 Sec. 2. NEW SECTION. RELATIONSHIP NOT DEPENDENT  
19 ON MARRIAGE. The parent and child relationship extends  
20 equally to every child and to every parent, regardless  
21 of the marital status of the parents.

22 Sec. 3. NEW SECTION. HOW PARENT AND CHILD  
23 RELATIONSHIP ESTABLISHED. The parent and child  
24 relationship between a child and:

25 1. The natural mother may be established by proof  
26 of her having given birth to the child, under this  
27 Act, under chapter two hundred fifty-two A (252A)  
28 of the Code or under other proceedings available at  
29 law or in equity;

30 2. The natural father may be established under  
31 this Act, under chapter two hundred fifty-two A (252A)  
32 of the Code or under other proceedings available at  
33 law or in equity;

34 3. An adoptive parent may be established by proof  
35 of adoption or under chapter six hundred (600) of  
36 the Code.

37 Sec. 4. NEW SECTION. PRESUMPTION OF PATERNITY.

38 1. A man is presumed to be the natural father  
39 of a child if:

40 a. He and the child's mother are or have been  
41 married to each other and the child is born during  
42 the marriage, or within three hundred days after the  
43 marriage is terminated by death, annulment, declaration  
44 of invalidity, or dissolution, or after a decree of  
45 separation is entered by a court;

46 b. Before the child's birth, he and the child's  
47 natural mother have attempted to marry each other  
48 by a marriage solemnized in apparent compliance with  
49 law, although the attempted marriage is or could be  
50 declared invalid, and,

1 (1) If the attempted marriage could be declared  
2 invalid only by a court, the child is born during  
3 the attempted marriage, or within three hundred days  
4 after its termination by death, annulment, declaration  
5 of invalidity, or dissolution; or

6 (2) If the attempted marriage is invalid without  
7 a court order, the child is born within three hundred  
8 days after the termination of cohabitation;

9 c. After the child's birth, he and the child's  
10 natural mother have married, or attempted to marry,  
11 each other by a marriage solemnized in apparent  
12 compliance with law, although the attempted marriage  
13 is or could be declared invalid, and

14 (1) He has acknowledged his paternity of the child  
15 in writing filed with the state registrar of vital  
16 statistics, or

17 (2) With his consent, he is named as the child's  
18 father on the child's birth certificate, or

19 (3) He is obligated to support the child under  
20 a written voluntary promise or by court order;

21 d. While the child is under the age of majority,  
22 he receives the child into his home and openly holds  
23 out the child as his natural child; or

24 e. He acknowledges his paternity of the child  
25 in a writing filed with the state registrar of vital  
26 statistics which shall promptly inform the mother  
27 of the filing of the acknowledgment, and she does  
28 not dispute the acknowledgment within a reasonable  
29 time after being informed thereof, in a writing filed  
30 with the state registrar of vital statistics. If  
31 another man is presumed under this section to be the  
32 child's father, acknowledgment may be effected only  
33 with the written consent of the presumed father or  
34 after the presumption has been rebutted.

35 2. A presumption under this section may be rebutted  
36 in an appropriate action only by clear and convincing  
37 evidence. If two or more presumptions arise which  
38 conflict with each other, the presumption which on  
39 the facts is founded on the weightier considerations  
40 of policy and logic controls. The presumption is  
41 rebutted by a court decree establishing paternity  
42 of the child by another man.

43 Sec. 5. NEW SECTION. ARTIFICIAL INSEMINATION.

44 1. If, under the supervision of a physician and  
45 with the consent of her husband, a wife is inseminated  
46 artificially with semen donated by a man not her  
47 husband, the husband is treated in law as if he were  
48 the natural father of the conceived child. The  
49 husband's consent must be in writing and signed by  
50 him and his wife. The physician shall certify their

1 signatures and the date of the insemination, and file  
2 the husband's consent with the state department of  
3 health, where, notwithstanding chapter sixty-eight  
4 A (68A) of the Code, it shall be kept confidential  
5 and in a sealed file. However, the physician's failure  
6 to certify or file the consent does not affect the  
7 father and child relationship. All papers and records  
8 pertaining to the insemination, whether part of the  
9 permanent record of a court or of a file held by the  
10 supervising physician or elsewhere, are subject to  
11 inspection only upon an order of the court for good  
12 cause shown.

13 2. The donor of semen provided to a physician  
14 for use in artificial insemination of a married woman  
15 other than the donor's wife is treated in law as if  
16 he were not the natural father of the conceived child.

17 Sec. 6. NEW SECTION. DETERMINATION OF FATHER  
18 AND CHILD RELATIONSHIP--WHO MAY BRING ACTION--WHEN  
19 ACTION MAY BE BROUGHT.

20 1. A child, the child's natural mother, or a man  
21 presumed to be the child's father under section four  
22 (4), subsection one (1), paragraph a, b, or c of this  
23 Act may bring an action:

24 a. At any time for the purpose of declaring the  
25 existence of the father and child relationship presumed  
26 under section four (4), subsection one (1), paragraph  
27 a, b, or c of this Act; or

28 b. For the purpose of declaring the nonexistence  
29 of the father and child relationship presumed under  
30 section four (4), subsection one (1), paragraph a,  
31 b, or c of this Act only if the action is brought  
32 within a reasonable time after obtaining knowledge  
33 of relevant facts, but in no event later than five  
34 years after the child's birth. After the presumption  
35 has been rebutted, paternity of the child by another  
36 man may be determined in the same action, if he has  
37 been made a party.

38 2. Any interested party may bring an action at  
39 any time for the purpose of determining the existence  
40 or nonexistence of the father and child relationship  
41 presumed under section four (4), subsection one (1),  
42 paragraphs d or e of this Act.

43 3. An action to determine the existence of the  
44 father and child relationship with respect to a child  
45 who has no presumed father under section four (4)  
46 of this Act may be brought by the child, the mother  
47 or personal representative of the child, the department  
48 of social services, the personal representative or  
49 a parent of the mother if the mother has died, a man  
50 alleged or alleging himself to be the father, or the

1 personal representative or a parent of the alleged  
2 father if the alleged father has died or is a minor.  
3 4. Regardless of its terms, an agreement, other  
4 than an agreement approved by the court in accordance  
5 with section thirteen (13), subsection two (2) of  
6 this Act, between an alleged or presumed father and  
7 the mother or child, does not bar an action under  
8 this section.

9 5. If an action under this section is brought  
10 before the birth of the child, all proceedings shall  
11 be stayed until after the birth, except service of  
12 process and the taking of depositions to perpetuate  
13 testimony.

14 Sec. 7. NEW SECTION. STATUTE OF LIMITATIONS.

15 An action to determine the existence of the father  
16 and child relationship as to a child who has no  
17 presumed father under section four (4) of this Act  
18 may not be brought later than three years after the  
19 birth of the child, or later than three years after  
20 the effective date of this Act, whichever is later.  
21 However, an action brought by or on behalf of a child  
22 whose paternity has not been determined is not barred  
23 until three years after the child reaches the age  
24 of majority. Sections six (6) and seven (7) of this  
25 Act do not extend the time within which a right of  
26 inheritance or a right to a succession may be asserted  
27 beyond the time provided by law relating to  
28 distribution and closing of decedents' estates or  
29 to the determination of heirship, or otherwise.

30 Sec. 8. NEW SECTION. JURISDICTION--VENUE.

31 1. Without limiting the jurisdiction of any other  
32 court, the district court in the county in which the  
33 alleged father, mother, or child resides or is found  
34 has jurisdiction of an action brought pursuant to  
35 this Act. However, if the father is deceased, an  
36 action may be brought in the county in which  
37 proceedings for probate of his estate have been or  
38 could be commenced. The action may be joined with  
39 an action for dissolution, annulment, separate  
40 maintenance or support.

41 2. A person who has sexual intercourse in this  
42 state submits to the jurisdiction of the courts of  
43 this state as to an action brought under this Act  
44 with respect to a child who may have been conceived  
45 by that act of intercourse. In addition to any other  
46 method provided by rule or statute, personal jur-  
47 isdiction may be acquired pursuant to the procedure  
48 set forth in section six hundred seventeen point three  
49 (617.3) of the Code.

50 Sec. 9. NEW SECTION. PARTIES. The natural mother,

1 each man presumed to be the father under section four  
2 (4) of this Act, and each man alleged to be the natural  
3 father, shall be made parties or, if not subject to  
4 the jurisdiction of the court, shall be given notice  
5 of the action in a manner prescribed by the court  
6 and an opportunity to be heard. The court may align  
7 the parties.

8 Sec. 10. NEW SECTION. PRE-TRIAL PROCEEDINGS.

9 1. As soon as practicable after an action to  
10 declare the existence or nonexistence of the father  
11 and child relationship has been brought, an informal  
12 hearing shall be held. The court may order that the  
13 hearing be held before a referee. Notwithstanding  
14 chapter twenty-eight A (28A) of the Code, the public  
15 shall be barred from the hearing. A record of the  
16 proceeding or any portion thereof shall be kept if  
17 any party requests, or the court orders. Rules of  
18 evidence need not be observed.

19 2. Upon refusal of any witness, including a party,  
20 to testify under oath or produce evidence, the court  
21 may order the witness to testify under oath and produce  
22 evidence concerning all relevant facts. If the refusal  
23 is upon the ground that the testimony or evidence  
24 might tend to be incriminating, the court may grant  
25 the witness immunity from all criminal liability on  
26 account of the testimony or evidence the witness is  
27 required to produce. An order granting immunity bars  
28 prosecution of the witness for any offense shown in  
29 whole or in part by testimony or evidence the witness  
30 is required to produce, except for perjury committed  
31 in the testimony. The refusal of a witness who has  
32 been granted immunity to obey an order to testify  
33 or produce evidence is a civil contempt of the court.

34 3. Testimony of a physician concerning the medical  
35 circumstances of the pregnancy and the condition and  
36 characteristics of the child upon birth is not  
37 privileged.

38 Sec. 11. NEW SECTION. BLOOD TESTS.

39 1. The court may, and upon request of a party  
40 shall, require the child, mother, or alleged father  
41 to submit to blood tests. The tests shall be performed  
42 by an expert qualified as an examiner of blood types,  
43 appointed by the court.

44 2. The court, upon reasonable request of a party,  
45 shall order that independent tests be performed by  
46 other experts qualified as examiner of blood types  
47 at the expense of the party requesting the duplicate  
48 tests.

49 3. In all cases, the court shall determine the  
50 number and qualifications of the experts.

1 Sec. 12. NEW SECTION. EVIDENCE RELATING TO  
2 PATERNITY. Evidence relating to paternity may include  
3 any of the following:

4 1. Evidence of sexual intercourse between the  
5 mother and alleged father at any possible time of  
6 conception.

7 2. An expert's opinion concerning the statistical  
8 probability of the alleged father's paternity based  
9 upon the duration of the mother's pregnancy.

10 3. Blood test results, weighted in accordance  
11 with evidence, if available, of the statistical  
12 probability of the alleged father's paternity.

13 4. Medical or anthropological evidence relating  
14 to the alleged father's paternity of the child based  
15 on tests performed by experts. If a man has been  
16 identified as a possible father of the child, the  
17 court may, and upon request of a party shall, require  
18 the child, the mother, and the man to submit to  
19 appropriate tests.

20 5. Other evidence relevant and material to the  
21 issue of paternity of the child.

22 Sec. 13. NEW SECTION. PRE-TRIAL RECOMMENDATIONS.

23 1. On the basis of the information produced at  
24 the pre-trial hearing, the judge or referee conducting  
25 the hearing shall evaluate the probability of  
26 determining the existence or nonexistence of the  
27 father and child relationship in a trial and whether  
28 a judicial declaration of the relationship would be  
29 in the best interest of the child. On the basis of  
30 the evaluation, an appropriate recommendation for  
31 settlement shall be made to the parties, which may  
32 include any of the following:

33 a. That the action be dismissed with or without  
34 prejudice.

35 b. That the matter be compromised by an agreement  
36 among the alleged father, the mother, and the child,  
37 in which the father and child relationship is not  
38 determined but in which a defined economic obligation  
39 is undertaken by the alleged father in favor of the  
40 child and, if appropriate, in favor of the mother,  
41 subject to approval by the judge or referee conducting  
42 the hearing. In reviewing the obligation undertaken  
43 by the alleged father in a compromise agreement, the  
44 judge or referee conducting the hearing shall consider  
45 the best interest of the child, in the light of the  
46 factors enumerated in section fifteen (15), subsection  
47 five (5) of this Act, discounted by the probability  
48 as it appears to the court, of establishing the alleged  
49 father's paternity or nonpaternity of the child in  
50 a trial of the action. In the best interest of the

1 child, the court may order that the alleged father's  
2 identity be kept confidential. In that case, the  
3 court may designate a person or agency to receive  
4 from the alleged father and disburse on behalf of  
5 the child all amounts paid by the alleged father in  
6 fulfillment of obligations imposed on him.

7 c. That the alleged father voluntarily acknowledge  
8 his paternity of the child.

9 2. If the parties accept a recommendation made  
10 in accordance with subsection one (1) of this section,  
11 judgment shall be entered accordingly.

12 3. If a party refuses to accept a recommendation  
13 made under subsection one (1) of this section and  
14 blood tests have not been taken, the court shall  
15 require the parties to submit to blood tests, if  
16 practicable. Thereafter the judge or referee shall  
17 make an appropriate final recommendation. If a party  
18 refuses to accept the final recommendation, the action  
19 shall be set for trial.

20 4. The guardian ad litem may accept or refuse  
21 to accept a recommendation under this section.

22 5. The informal hearing may be terminated and  
23 the action set for trial if the judge or referee  
24 conducting the hearing finds it unlikely that all  
25 parties would accept a recommendation he or she might  
26 make under subsection one (1) or three (3) of this  
27 section.

28 Sec. 14. NEW SECTION. CIVIL ACTION.

29 1. An action under this Act is a civil action  
30 governed by the rules of civil procedure. If the  
31 mother of the child and the alleged father are  
32 competent to testify they may be compelled to testify.  
33 Subsections two (2) and three (3) of section ten (10)  
34 and sections eleven (11) and twelve (12) of this Act  
35 apply.

36 2. Testimony relating to sexual access to the  
37 mother by an unidentified man at any time or by an  
38 identified man at a time other than the probable time  
39 of conception of the child is inadmissible in evidence,  
40 unless offered by the mother.

41 3. In an action against an alleged father, evidence  
42 offered by him with respect to a man who is not subject  
43 to the jurisdiction of the court concerning the man's  
44 sexual intercourse with the mother at or about the  
45 probable time of conception of the child is admissible  
46 in evidence only if the man has undergone and made  
47 available to the court blood tests the results of  
48 which do not exclude the possibility of the man's  
49 paternity of the child. A man who is so identified  
50 and is subject to the jurisdiction of the court shall

1 be made a defendant in the action.

2 4. The trial shall be by the court without a jury.

3 Sec. 15. NEW SECTION. JUDGMENT OR ORDER.

4 1. The judgment or order of the court determining  
5 the existence or nonexistence of the parent and child  
6 relationship is determinative for all purposes.

7 2. If the judgment or order of the court is at  
8 variance with the child's birth certificate, the court  
9 shall order that an amended birth certificate be  
10 issued under section twenty-three (23) of this Act.

11 3. The judgment or order may contain any other  
12 provision directed against the appropriate party to  
13 the proceeding concerning the duty of support, the  
14 furnishing of bond or other security for the payment  
15 of the judgment, or any other matter in the best  
16 interest of the child. The judgment or order may  
17 direct the father to pay the reasonable expenses of  
18 the mother's pregnancy and confinement.

19 4. Support judgments or orders ordinarily shall  
20 be for periodic payments which may vary in amount.  
21 In the best interest of the child, a lump sum payment  
22 or the purchase of an annuity may be ordered in lieu  
23 of periodic payments of support. The court may limit  
24 the father's liability for past support of the child  
25 to the proportion of the expenses already incurred  
26 that the court deems just.

27 5. In determining the amount to be paid by a .  
28 parent for support of the child and the period during  
29 which the duty of support is owed, a court enforcing  
30 the obligation of support shall consider all relevant  
31 facts including but not necessarily limited to:

32 a. The needs of the child.

33 b. The standard of living and circumstances of  
34 the parents.

35 c. The relative financial means of the parents.

36 d. The earning ability of the parents.

37 e. The need and capacity of the child for  
38 education, including higher education.

39 f. The age of the child.

40 g. The financial resources and the earning ability  
41 of the child.

42 h. The responsibility of the parents for the  
43 support of others.

44 i. The value of services contributed by the  
45 custodial parent.

46 Sec. 16. NEW SECTION. COSTS. The court may order  
47 reasonable fees of counsel, experts, and the child's  
48 guardian ad litem, and other costs of the action and  
49 pre-trial proceedings, including blood tests, to be  
50 paid by the parties in proportions and at times

1 determined by the court.

2 Sec. 17. NEW SECTION. ENFORCEMENT OF JUDGMENT

3 OR ORDER.

4 1. If existence of the father and child  
5 relationship is declared, or paternity or a duty of  
6 support has been acknowledged or adjudicated under  
7 this Act or under prior law, the obligation of the  
8 father may be enforced in the same or other proceedings  
9 by the mother, the child, the public authority that  
10 has furnished or may furnish the reasonable expenses  
11 of pregnancy, confinement, education, support, or  
12 funeral, or by any other person, including a private  
13 agency, to the extent he or she has furnished or is  
14 furnishing these expenses.

15 2. All orders or judgments providing support  
16 payments shall direct the payment of such sums to  
17 the clerk of court for the use of the person to whom  
18 the payments have been awarded.

19 3. Willful failure to obey the judgment or order  
20 of the court is a civil contempt of the court. All  
21 remedies for the enforcement of judgments apply.

22 Sec. 18. NEW SECTION. MODIFICATION OF JUDGMENT  
23 OR ORDER. The court has continuing jurisdiction to  
24 modify or revoke a judgment or order upon a showing  
25 that a change in circumstances warrants the  
26 modification or revocation for the following reasons:

27 1. Future education and support; or

28 2. With respect to matters listed in section  
29 fifteen (15), subsections three (3) and four (4),  
30 and section seventeen (17), subsection two (2) of  
31 this Act, except that a court entering a judgment  
32 or order for the payment of a lump sum or the purchase  
33 of an annuity under section fifteen (15), subsection  
34 four (4) of this Act may specify that the judgment  
35 or order may not be modified or revoked.

36 Sec. 19. NEW SECTION. HEARINGS AND RECORDS--  
37 CONFIDENTIALITY. Notwithstanding chapters twenty-  
38 eight A (28A) or sixty-eight A (68A) of the Code  
39 concerning public meetings and records, any hearing  
40 or trial held under this Act shall be held in closed  
41 court without admittance of any person other than  
42 those necessary to the action or proceeding. All  
43 papers and records, other than the final judgment,  
44 pertaining to the action or proceeding, whether part  
45 of the permanent record of the court or of a file  
46 in any state agency or elsewhere, are subject to  
47 inspection only upon consent of the court and all  
48 interested persons, or in exceptional cases only upon  
49 an order of the court for good cause shown.

50 Sec. 20. NEW SECTION. ACTION TO DECLARE MOTHER

1 AND CHILD RELATIONSHIP. Any interested party may  
2 bring an action to determine the existence or  
3 nonexistence of a mother and child relationship.  
4 Insofar as practicable, the provisions of this Act  
5 applicable to the father and child relationship apply.

6 Sec. 21. NEW SECTION. PROMISE TO RENDER SUP-  
7 PORT. Any promise in writing to furnish support for  
8 a child, growing out of a supposed or alleged father  
9 and child relationship, does not require consideration  
10 and is enforceable according to its terms, subject  
11 to section six (6), subsection four (4) of this Act.

12 Sec. 22. NEW SECTION. BIRTH RECORDS.

13 1. Upon order of a court of this state or upon  
14 request of a court of another state, the state  
15 registrar of vital statistics shall prepare an amended  
16 birth certificate consistent with the findings of  
17 the court.

18 2. The fact that the father and child relationship  
19 was declared after the child's birth shall not be  
20 ascertainable from the amended certificate but the  
21 actual place and date of birth shall be shown.

22 3. The evidence upon which the amended certificate  
23 was made and the original birth certificate shall  
24 be kept in a sealed and confidential file and be  
25 subject to inspection only upon consent of the court  
26 and all interested persons, or in exceptional cases  
27 only upon an order of the court for good cause shown.

28 Sec. 23. NEW SECTION. WHEN NOTICE OF ADOPTION  
29 PROCEEDING REQUIRED: If a mother relinquishes or  
30 proposes to relinquish for adoption a child who has  
31 either a presumed father under section four (4),  
32 subsection one (1) of this Act, or a father whose  
33 relationship to the child has been determined by a  
34 court, or a father as to whom the child is a legitimate  
35 child under prior law of this state or under the law  
36 of another jurisdiction, the father shall be given  
37 notice of the adoption proceeding and have the rights  
38 provided under chapter six hundred (600) of the Code,  
39 unless the father's relationship to the child has  
40 been previously terminated or determined by a court  
41 not to exist.

42 Sec. 24. NEW SECTION. PROCEEDING TO TERMINATE  
43 PARENTAL RIGHTS.

44 1. If a mother relinquishes or proposes to  
45 relinquish for adoption a child who does not have  
46 either a presumed father under section four (4),  
47 subsection one (1) of this Act, or a father whose  
48 relationship to the child has been determined by a  
49 court, or a father as to whom the child is a legitimate  
50 child under prior law of this state or under the law

1 of another jurisdiction, or if a child otherwise  
2 becomes the subject of an adoption proceeding, a  
3 petition for termination of parental rights of the  
4 father shall be filed with the juvenile court pursuant  
5 to section six hundred A point five (600A.5) of the  
6 Code, unless the father's relationship to the child  
7 has been previously terminated or determined not to  
8 exist by a court.

9 2. In an effort to identify the natural father,  
10 the court shall cause inquiry to be made of the mother  
11 and any other appropriate person. The inquiry shall  
12 include the following: whether the mother was married  
13 at the time of conception of the child or at any time  
14 thereafter; whether the mother was cohabiting with  
15 a man at the time of conception or birth of the child;  
16 whether the mother has received support payments or  
17 promises of support with respect to the child or in  
18 connection with her pregnancy; or whether any man  
19 has formally or informally acknowledged or declared  
20 his possible paternity of the child.

21 3. If, after the inquiry, the natural father is  
22 identified to the satisfaction of the court, or if  
23 more than one man is identified as a possible father,  
24 each shall be given notice of the proceeding in  
25 accordance with section six hundred A point six  
26 (600A.6) of the Code. If any of them fails to appear  
27 or, if appearing, fails to claim custodial rights,  
28 his parental rights with reference to the child shall  
29 be terminated. If the natural father or a man  
30 representing himself to be the natural father, claims  
31 custodial rights, the court shall proceed to determine  
32 custodial rights.

33 4. If, after the inquiry, the court is unable  
34 to identify the natural father or any possible natural  
35 father and no person has appeared claiming to be the  
36 natural father and claiming custodial rights, the  
37 court shall enter an order terminating the unknown  
38 natural father's parental rights with reference to  
39 the child. Subject to the disposition of an appeal  
40 upon the expiration of six months after an order  
41 terminating parental rights is issued under this  
42 subsection, the order cannot be questioned by any  
43 person, in any manner, or upon any ground, including  
44 fraud, misrepresentation, failure to give any required  
45 notice, or lack of jurisdiction of the parties or  
46 of the subject matter.

47 5. Notice of the proceeding shall be given pursuant  
48 to section six hundred A point six (600A.6) of the  
49 Code.

50 Sec. 25. NEW SECTION. CUSTODY, GUARDIANSHIP AND

1 VISITATION. The custody and guardianship of the child  
2 and visitation privileges with the child shall be  
3 determined in a proceeding separate and apart from  
4 any proceedings under this Act to determine paternity  
5 of the child and support. The child shall be made  
6 a party to such separate action. A general guardian  
7 or guardian ad litem appointed by the court shall  
8 represent a child who is minor. The child's mother  
9 or father shall not represent the child as guardian  
10 or otherwise. The court may appoint the department  
11 of social services as guardian ad litem for the child.

12 Sec. 26. NEW SECTION. WELFARE RECIPIENT--ASSIGN-  
13 MENT OF SUPPORT PAYMENTS. Persons entitled to support  
14 payments pursuant to this Act who are also welfare  
15 recipients shall assign their rights to the payments  
16 to the department of social services, which may secure  
17 payments in default. The clerk of court shall forward  
18 support payments received pursuant to this Act to  
19 the department of social services and shall furnish  
20 the department with copies of all orders or decrees  
21 awarding support to parties having custody of minor  
22 children when the parties are receiving welfare  
23 assistance.

24 Sec. 27. Section one hundred forty-four point  
25 forty (144.40), Code 1977, is amended by striking  
26 the section and inserting in lieu thereof the  
27 following:

28 144.40 PATERNITY OR MATERNITY OF CHILDREN. Upon  
29 order of a court of this state or upon request of  
30 a court of another state, the state registrar shall  
31 prepare an amended certificate of birth pursuant to  
32 the provisions of section twenty-three (23) of this  
33 Act.

34 Sec. 28. Section two hundred fifty-two B point  
35 three (252B.3), Code 1977, is amended to read as  
36 follows:

37 252B.3 DUTY OF DEPARTMENT TO ENFORCE CHILD SUPPORT.  
38 Upon receipt by the department of an application for  
39 public assistance on behalf of a child and  
40 determination by the department that the child has  
41 been abandoned by its parents or that the child and  
42 one parent have been abandoned by the other parent  
43 or that the parent or other person responsible for  
44 the care, support or maintenance of the child has  
45 failed or neglected to give proper care or support  
46 to the child, the department shall take appropriate  
47 action under the provisions of this chapter or under  
48 other appropriate statutes of this state including  
49 but not limited to chapters 239, 252A, 598, and 675  
50 this Act, to insure that the parent or other person

1 responsible for the support of the child fulfills  
2 the support obligation.

3 Sec. 29. Section two hundred fifty-two B point  
4 four (252B.4), Code 1977, is amended to read as  
5 follows:

6 252B.4 NONASSISTANCE CASES. The child support  
7 and paternity determination services established by  
8 the department pursuant to this Act and other  
9 appropriate services provided by law including but  
10 not limited to the provisions of chapters 239, 252A,  
11 598 and 675 this Act shall be made available by the  
12 unit to any individual not otherwise eligible as a  
13 public assistance recipient upon application by the  
14 individual for the services. The application shall  
15 be filed with the department. The commissioner may  
16 require an application fee not to exceed twenty dollars  
17 as determined by the commissioner. The commissioner  
18 may require an additional fee to cover the costs  
19 incurred by the department in providing the support  
20 collection and paternity determination services.  
21 The commissioner shall, by regulation, establish and  
22 make available to all applicants for support  
23 enforcement and paternity determination services a  
24 fee schedule, however, the fee shall not exceed ten  
25 percent of any support money recovered by department  
26 action. The fee for support collection and paternity  
27 determination services shall be agreed upon in writing  
28 by the individual requesting the services. The  
29 application fee and the additional fee for services  
30 provided may be deducted from the amount of the support  
31 money recovered by the department. Fees collected  
32 pursuant to this section shall be remitted to the  
33 treasurer of state who shall deposit them in the  
34 general fund of the state. The commissioner or a  
35 designee and the treasurer of state shall keep an  
36 accurate record of funds so remitted and deposited.

37 Sec. 30. Section two hundred fifty-two B point  
38 five (252B.5), subsection three (3), Code 1977, is  
39 amended to read as follows:

40 3. Aid in enforcing through court proceedings  
41 an existing court order for support issued pursuant  
42 to chapters 252A, 598, and 675 this Act.

43 Sec. 31. Section six hundred A point three  
44 (600A.3), Code 1977, is amended to read as follows:

45 600A.3 EXCLUSIVITY. Termination of parental  
46 rights shall be accomplished only according to the  
47 provisions of this chapter and this Act. However,  
48 termination of parental rights between an adult child  
49 and the child's parents may be accomplished by a  
50 decree of adoption establishing a new parent-child

1 relationship.

2 Sec. 32. NEW SECTION. UNIFORMITY OF APPLICATION  
3 AND CONSTRUCTION. This Act shall be applied and  
4 construed to effectuate its general purpose to make  
5 uniform the law with respect to the subject of this  
6 Act among states enacting it.

7 Sec. 33. NEW SECTION. SHORT TITLE. This Act  
8 may be cited as the uniform parentage Act.

9 Sec. 34. Chapter six hundred seventy-five (675),  
10 Code 1977, is repealed.

11 Sec. 35. This Act is effective January 1, 1979."

12 2. Amend the title, by striking lines 1 and 2  
13 and inserting in lieu thereof the following:

14 "An Act to enact the Uniform Parentage Act providing  
15 substantive equality for all children regardless of  
16 the marital status of their parents and providing  
17 for civil contempt."

S-5932 FILED  
MAY 12, 1978

RECEIVED FROM THE HOUSE

H-6684

1 Amend Senate File 217 as amended and passed by  
2 the Senate as follows:

3 1. By striking all after the enacting clause and  
4 inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. DEFINITIONS. As used  
6 in this Act:

6700 7 1. "Parent and child relationship" means the legal  
8 relationship existing between a child and his or her  
9 natural or adoptive parents incident to which the  
10 law confers or imposes rights, privileges, duties,  
11 and obligations. It includes the mother and child  
12 relationship and the father and child relationship.

13 2. "Physician" means a person licensed by this  
14 state to practice medicine and surgery, osteopathy,  
15 or osteopathic medicine and surgery.

16 Sec. 2. NEW SECTION. RELATIONSHIP NOT DEPENDENT  
17 ON MARRIAGE. The parent and child relationship extends  
18 equally to every child and to every parent, regardless  
19 of the marital status of the parents.

20 Sec. 3. NEW SECTION. HOW PARENT AND CHILD  
21 RELATIONSHIP ESTABLISHED. The parent and child  
22 relationship between a child and:

23 1. The natural mother may be established by proof  
6704 24 of her having given birth to the child, ~~or~~ under this  
25 Act, under chapter two hundred fifty-two A (252A)  
26 of the Code or under other proceedings available at  
27 law or in equity;

28 2. The natural father may be established under  
29 this Act, under chapter two hundred fifty-two A (252A)  
30 of the Code or under other proceedings available at  
31 law or in equity;

32 3. An adoptive parent may be established by proof  
33 of adoption or under chapter six hundred (600) of  
34 the Code.

35 Sec. 4. NEW SECTION. PRESUMPTION OF PATERNITY.

36 1. A man is presumed to be the natural father  
37 of a child if:

38 a. He and the child's mother are or have been  
39 married to each other and the child is born during  
40 the marriage, or within three hundred days after the  
41 marriage is terminated by death, annulment, declaration  
42 of invalidity, or dissolution, or after a decree of  
43 separation is entered by a court;

44 b. Before the child's birth, he and the child's  
45 natural mother have attempted to marry each other  
46 by a marriage solemnized in apparent compliance with  
47 law, although the attempted marriage is or could be  
48 declared invalid, and,

49 (1) If the attempted marriage could be declared  
50 invalid only by a court, the child is born during

1 the attempted marriage, or within three hundred days  
2 after its termination by death, annulment, declaration  
3 of invalidity, or dissolution; or

4 (2) If the attempted marriage is invalid without  
5 a court order, the child is born within three hundred  
6 days after the termination of cohabitation;

7 c. After the child's birth, he and the child's  
8 natural mother have married, or attempted to marry,  
9 each other by a marriage solemnized in apparent  
10 compliance with law, although the attempted marriage  
11 is or could be declared invalid, and

12 (1) He has acknowledged his paternity of the child  
13 in writing filed with the state registrar of vital  
14 statistics, or

15 (2) With his consent, he is named as the child's  
16 father on the child's birth certificate, or

17 (3) He is obligated to support the child under  
18 a written voluntary promise or by court order;

19 d. While the child is under the age of majority,  
20 he receives the child into his home and openly holds  
21 out the child as his natural child; or

22 e. He acknowledges his paternity of the child  
23 in a writing filed with the state registrar of vital  
24 statistics which shall promptly inform the mother  
25 of the filing of the acknowledgment, and she does  
26 not dispute the acknowledgment within a reasonable  
27 time after being informed thereof, in a writing filed  
28 with the state registrar of vital statistics. If  
29 another man is presumed under this section to be the  
30 child's father, acknowledgment may be effected only  
31 with the written consent of the presumed father or  
32 after the presumption has been rebutted.

33 2. A presumption under this section may be rebutted  
34 in an appropriate action only by clear and convincing  
35 evidence. If two or more presumptions arise which  
36 conflict with each other, the presumption which on  
37 the facts is founded on the weightier considerations  
38 of policy and logic controls. The presumption is  
39 rebutted by a court decree establishing paternity  
40 of the child by another man.

41 Sec. 5. NEW SECTION. ARTIFICIAL INSEMINATION.

42 1. If, under the supervision of a physician and  
43 with the consent of her husband, a wife is inseminated  
44 artificially with semen donated by a man not her  
45 husband, the husband is treated in law as if he were  
46 the natural father of the conceived child. The  
47 husband's consent must be in writing and signed by  
48 him and his wife. The physician shall certify their  
49 signatures and the date of the insemination, and file  
50 the husband's consent with the state department of

1 health, where, notwithstanding chapter sixty-eight  
2 A (68A) of the Code, it shall be kept confidential  
3 and in a sealed file. However, the physician's failure  
4 to certify or file the consent does not affect the  
5 father and child relationship. All papers and records  
6 pertaining to the insemination, whether part of the  
7 permanent record of a court or of a file held by the  
8 supervising physician or elsewhere, are subject to  
9 inspection only upon an order of the court for good  
10 cause shown.

11 2. The donor of semen provided to a physician  
12 for use in artificial insemination of a married woman  
13 other than the donor's wife is treated in law as if  
14 he were not the natural father of the conceived child.

15 Sec. 6. NEW SECTION. DETERMINATION OF FATHER  
16 AND CHILD RELATIONSHIP--WHO MAY BRING ACTION--WHEN  
17 ACTION MAY BE BROUGHT.

18 1. A child, the child's natural mother, or a man  
19 presumed to be the child's father under section four  
20 (4), subsection one (1), paragraph a, b, or c of this  
21 Act may bring an action:

22 a. At any time for the purpose of declaring the  
23 existence of the father and child relationship presumed  
24 under section four (4), subsection one (1), paragraph  
25 a, b, or c of this Act; or

26 b. For the purpose of declaring the nonexistence  
27 of the father and child relationship presumed under  
28 section four (4), subsection one (1), paragraph a,  
29 b, or c of this Act only if the action is brought  
30 within a reasonable time after obtaining knowledge  
31 of relevant facts, but in no event later than five  
32 years after the child's birth. After the presumption  
33 has been rebutted, paternity of the child by another  
34 man may be determined in the same action, if he has  
35 been made a party.

36 2. Any interested party may bring an action at  
37 any time for the purpose of determining the existence  
38 or nonexistence of the father and child relationship  
39 presumed under section four (4), subsection one (1),  
40 paragraphs d or e of this Act.

41 3. An action to determine the existence of the  
42 father and child relationship with respect to a child  
43 who has no presumed father under section four (4)  
44 of this Act may be brought by the child, the mother  
45 or personal representative of the child, the department  
46 of social services, the personal representative or  
47 a parent of the mother if the mother has died, a man  
48 alleged or alleging himself to be the father, or the  
49 personal representative or a parent of the alleged  
50 father if the alleged father has died or is a minor.

1 4. Regardless of its terms, an agreement, other  
 2 than an agreement approved by the court in accordance  
 3 with section thirteen (13), subsection two (2) of  
 4 this Act, between an alleged or presumed father and  
 5 the mother or child, does not bar an action under  
 6 this section.

7 5. If an action under this section is brought  
 8 before the birth of the child, all proceedings shall  
 9 be stayed until after the birth, except service of  
 10 process and the taking of depositions to perpetuate  
 11 testimony.

12 Sec. 7. NEW SECTION. STATUTE OF LIMITATIONS.  
 13 An action to determine the existence of the father  
 14 and child relationship as to a child who has no  
 15 presumed father under section four (4) of this Act  
 16 may not be brought later than three years after the  
 17 birth of the child, or later than three years after  
 18 the effective date of this Act, whichever is later.  
 19 However, an action brought by or on behalf of a child  
 20 whose paternity has not been determined is not barred  
 21 until three years after the child reaches the age  
 22 of majority. Sections six (6) and seven (7) of this  
 23 Act do not extend the time within which a right of  
 24 inheritance or a right to a succession may be asserted  
 25 beyond the time provided by law relating to  
 26 distribution and closing of decedents' estates or  
 27 to the determination of heirship, or otherwise.

28 Sec. 8. NEW SECTION. JURISDICTION--VENUE.  
 29 1. Without limiting the jurisdiction of any other  
 30 court, the district court in the county in which the  
 31 alleged father, mother, or child resides or is found  
 32 has jurisdiction of an action brought pursuant to  
 33 this Act. However, if the father is deceased, an  
 34 action may be brought in the county in which  
 35 proceedings for probate of his estate have been or  
 36 could be commenced. The action may be joined with  
 37 an action for dissolution, annulment, separate  
 38 maintenance or support.

39 2. A person who has sexual intercourse in this  
 40 state submits to the jurisdiction of the courts of  
 41 this state as to an action brought under this Act  
 42 with respect to a child who may have been conceived  
 43 by that act of intercourse. In addition to any other  
 44 method provided by rule or statute, personal jur-  
 45 isdiction may be acquired pursuant to the procedure  
 46 set forth in section six hundred seventeen point three  
 47 (617.3) of the Code.

48 Sec. 9. NEW SECTION. PARTIES. ~~The child shall~~  
 49 ~~be made a party to the action.--A general guardian~~  
 50 ~~or guardian ad litem appointed by the court shall~~

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1 ~~represent a child who is a minor. The child's mother~~  
2 ~~or father shall not represent the child as guardian~~  
3 ~~or otherwise. The court may appoint the department~~  
4 ~~of social services as guardian ad litem for the child.~~  
5 The natural mother, each man presumed to be the father  
6 under section four (4) of this Act, and each man  
7 alleged to be the natural father, shall be made parties  
8 or, if not subject to the jurisdiction of the court,  
9 shall be given notice of the action in a manner  
10 prescribed by the court and an opportunity to be  
11 heard. The court may align the parties.

12 Sec. 10. NEW SECTION. PRE-TRIAL PROCEEDINGS.

13 1. As soon as practicable after an action to  
14 declare the existence or nonexistence of the father  
15 and child relationship has been brought, an informal  
16 hearing shall be held. The court may order that the  
17 hearing be held before a referee. Notwithstanding  
18 chapter twenty-eight A (28A) of the Code, the public  
19 shall be barred from the hearing. A record of the  
20 proceeding or any portion thereof shall be kept if  
21 any party requests, or the court orders. Rules of  
22 evidence need not be observed.

23 2. Upon refusal of any witness, including a party,  
24 to testify under oath or produce evidence, the court  
25 may order the witness to testify under oath and produce  
26 evidence concerning all relevant facts. If the refusal  
27 is upon the ground that the testimony or evidence  
28 might tend to be incriminating, the court may grant  
29 the witness immunity from all criminal liability on  
30 account of the testimony or evidence the witness is  
31 required to produce. An order granting immunity bars  
32 prosecution of the witness for any offense shown in  
33 whole or in part by testimony or evidence the witness  
34 is required to produce, except for perjury committed  
35 in the testimony. The refusal of a witness who has  
36 been granted immunity to obey an order to testify  
37 or produce evidence is a civil contempt of the court.

38 3. Testimony of a physician concerning the medical  
39 circumstances of the pregnancy and the condition and  
40 characteristics of the child upon birth is not  
41 privileged.

42 Sec. 11. NEW SECTION. BLOOD TESTS.

43 1. The court may, and upon request of a party  
44 shall, require the child, mother, or alleged father  
45 to submit to blood tests. The tests shall be performed  
46 by an expert qualified as an examiner of blood types,  
47 appointed by the court.

48 2. The court, upon reasonable request of a party,  
49 shall order that independent tests be performed by  
50 other experts qualified as examiner of blood types

1 at the expense of the party requesting the duplicate  
2 tests.

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

5 Sec. 12. NEW SECTION. EVIDENCE RELATING TO  
6 PATERNITY: Evidence relating to paternity may include  
7 any of the following:

8 1. Evidence of sexual intercourse between the  
9 mother and alleged father at any possible time of  
10 conception.

11 2. An expert's opinion concerning the statistical  
12 probability of the alleged father's paternity based  
13 upon the duration of the mother's pregnancy.

14 3. Blood test results, weighted in accordance  
15 with evidence, if available, of the statistical  
16 probability of the alleged father's paternity.

17 4. Medical or anthropological evidence relating  
18 to the alleged father's paternity of the child based  
19 on tests performed by experts. If a man has been  
20 identified as a possible father of the child, the  
21 court may, and upon request of a party shall, require  
22 the child, the mother, and the man to submit to  
23 appropriate tests.

24 5. Other evidence relevant and material to the  
25 issue of paternity of the child.

26 Sec. 13. NEW SECTION. PRE-TRIAL RECOMMENDATIONS.

27 1. On the basis of the information produced at  
28 the pre-trial hearing, the judge or referee conducting  
29 the hearing shall evaluate the probability of  
30 determining the existence or nonexistence of the  
31 father and child relationship in a trial and whether  
32 a judicial declaration of the relationship would be  
33 in the best interest of the child. On the basis of  
34 the evaluation, an appropriate recommendation for  
35 settlement shall be made to the parties, which may  
36 include any of the following:

37 a. That the action be dismissed with or without  
38 prejudice.

39 b. That the matter be compromised by an agreement  
40 among the alleged father, the mother, and the child,  
41 in which the father and child relationship is not  
42 determined but in which a defined economic obligation  
43 is undertaken by the alleged father in favor of the  
44 child and, if appropriate, in favor of the mother,  
45 subject to approval by the judge or referee conducting  
46 the hearing. In reviewing the obligation undertaken  
47 by the alleged father in a compromise agreement, the  
48 judge or referee conducting the hearing shall consider  
49 the best interest of the child, in the light of the  
50 factors enumerated in section fifteen (15), subsection

1 five (5) of this Act, discounted by the probability  
2 as it appears to the court, of establishing the alleged  
3 father's paternity or nonpaternity of the child in  
4 a trial of the action. In the best interest of the  
5 child, the court may order that the alleged father's  
6 identity be kept confidential. In that case, the  
7 court may designate a person or agency to receive  
8 from the alleged father and disburse on behalf of  
9 the child all amounts paid by the alleged father in  
10 fulfillment of obligations imposed on him.

11 c. That the alleged father voluntarily acknowledge  
12 his paternity of the child.

13 2. If the parties accept a recommendation made  
14 in accordance with subsection one (1) of this section,  
15 judgment shall be entered accordingly.

16 3. If a party refuses to accept a recommendation  
17 made under subsection one (1) of this section and  
18 blood tests have not been taken, the court shall  
19 require the parties to submit to blood tests, if  
20 practicable. Thereafter the judge or referee shall  
21 make an appropriate final recommendation. If a party  
22 refuses to accept the final recommendation, the action  
23 shall be set for trial.

24 4. The guardian ad litem may accept or refuse  
25 to accept a recommendation under this section.

26 5. The informal hearing may be terminated and  
27 the action set for trial if the judge or referee  
28 conducting the hearing finds it unlikely that all  
29 parties would accept a recommendation he or she might  
30 make under subsection one (1) or three (3) of this  
31 section.

32 Sec. 14. NEW SECTION. CIVIL ACTION.

33 1. An action under this Act is a civil action  
34 governed by the rules of civil procedure. If the  
35 mother of the child and the alleged father are  
36 competent to testify they may be compelled to testify.  
37 Subsections two (2) and three (3) of section ten (10)  
38 and sections eleven (11) and twelve (12) of this Act  
39 apply.

40 2. Testimony relating to sexual access to the  
41 mother by an unidentified man at any time or by an  
42 identified man at a time other than the probable time  
43 of conception of the child is inadmissible in evidence,  
44 unless offered by the mother.

45 3. In an action against an alleged father, evidence  
46 offered by him with respect to a man who is not subject  
47 to the jurisdiction of the court concerning the man's  
48 sexual intercourse with the mother at or about the  
49 probable time of conception of the child is admissible  
50 in evidence only if the man has undergone and made

1 available to the court blood tests the results of  
2 which do not exclude the possibility of the man's  
3 paternity of the child. A man who is so identified  
4 and is subject to the jurisdiction of the court shall  
5 be made a defendant in the action.

6 4. The trial shall be by the court without a jury.  
7 Sec. 15. NEW SECTION. JUDGMENT OR ORDER.

8 1. The judgment or order of the court determining  
9 the existence or nonexistence of the parent and child  
10 relationship is determinative for all purposes.

11 2. If the judgment or order of the court is at  
12 variance with the child's birth certificate, the court  
13 shall order that an amended birth certificate be  
14 issued under section twenty-three (23) of this Act.

15 3. The judgment or order may contain any other  
16 provision directed against the appropriate party to  
17 the proceeding concerning the duty of support, the  
18 furnishing of bond or other security for the payment  
19 of the judgment, or any other matter in the best  
20 interest of the child. The judgment or order may  
21 direct the father to pay the reasonable expenses of  
22 the mother's pregnancy and confinement.

23 4. Support judgments or orders ordinarily shall  
24 be for periodic payments which may vary in amount.  
25 In the best interest of the child, a lump sum payment  
26 or the purchase of an annuity may be ordered in lieu  
27 of periodic payments of support. The court may limit  
28 the father's liability for past support of the child  
29 to the proportion of the expenses already incurred  
30 that the court deems just.

31 5. In determining the amount to be paid by a  
32 parent for support of the child and the period during  
33 which the duty of support is owed, a court enforcing  
34 the obligation of support shall consider all relevant  
35 facts including but not necessarily limited to:

36 a. The needs of the child.

37 b. The standard of living and circumstances of  
38 the parents.

39 c. The relative financial means of the parents.

40 d. The earning ability of the parents.

41 e. The need and capacity of the child for  
42 education, including higher education.

43 f. The age of the child.

44 g. The financial resources and the earning ability  
45 of the child.

46 h. The responsibility of the parents for the  
47 support of others.

48 i. The value of services contributed by the  
49 custodial parent.

50 Sec. 16. NEW SECTION. COSTS. The court may order

1 reasonable fees of counsel, experts, and the child's  
2 guardian ad litem, and other costs of the action and  
3 pre-trial proceedings, including blood tests, to be  
4 paid by the parties in proportions and at times  
5 determined by the court.

6 Sec. 17. NEW SECTION. ENFORCEMENT OF JUDGMENT  
7 OR ORDER.

8 1. If existence of the father and child  
9 relationship is declared, or paternity or a duty of  
10 support has been acknowledged or adjudicated under  
11 this Act or under prior law, the obligation of the  
12 father may be enforced in the same or other proceedings  
13 by the mother, the child, the public authority that  
14 has furnished or may furnish the reasonable expenses  
15 of pregnancy, confinement, education, support, or  
16 funeral, or by any other person, including a private  
17 agency, to the extent he or she has furnished or is  
18 furnishing these expenses.

19 2. All orders or judgments providing support  
20 payments shall direct the payment of such sums to  
21 the clerk of court for the use of the person to whom  
22 the payments have been awarded.

23 3. Willful failure to obey the judgment or order  
24 of the court is a civil contempt of the court. All  
25 remedies for the enforcement of judgments apply.

26 Sec. 18. NEW SECTION. MODIFICATION OF JUDGMENT  
27 OR ORDER. The court has continuing jurisdiction to  
28 modify or revoke a judgment or order upon a showing  
29 that a change in circumstances warrants the  
30 modification or revocation for the following reasons:

31 1. Future education and support; or

32 2. With respect to matters listed in section  
33 fifteen (15), subsections three (3) and four (4),  
34 and section seventeen (17), subsection two (2) of  
35 this Act, except that a court entering a judgment  
36 or order for the payment of a lump sum or the purchase  
37 of an annuity under section fifteen (15), subsection  
38 four (4) of this Act may specify that the judgment  
39 or order may not be modified or revoked.

40 Sec. 19. NEW SECTION. HEARINGS AND RECORDS--  
41 CONFIDENTIALITY. Notwithstanding chapters twenty-  
42 eight A (28A) or sixty-eight A (68A) of the Code  
43 concerning public meetings and records, any hearing  
44 or trial held under this Act shall be held in closed  
45 court without admittance of any person other than  
46 those necessary to the action or proceeding. All  
47 papers and records, other than the final judgment,  
48 pertaining to the action or proceeding, whether part  
49 of the permanent record of the court or of a file  
50 in any state agency or elsewhere, are subject to

inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

4 Sec. 20. NEW SECTION. ACTION TO DECLARE MOTHER  
5 AND CHILD RELATIONSHIP. Any interested party may  
6 bring an action to determine the existence or  
7 nonexistence of a mother and child relationship.  
8 Insofar as practicable, the provisions of this Act  
9 applicable to the father and child relationship apply.

10 Sec. 21. NEW SECTION. PROMISE TO RENDER SUP-  
11 PORT. Any promise in writing to furnish support for  
12 a child, growing out of a supposed or alleged father  
13 and child relationship, does not require consideration  
14 and is enforceable according to its terms, subject  
15 to section six (6), subsection four (4) of this Act.

16 Sec. 22. NEW SECTION. BIRTH RECORDS.

17 1. Upon order of a court of this state or upon  
18 request of a court of another state, the state  
19 registrar of vital statistics shall prepare an amended  
20 birth certificate consistent with the findings of  
21 the court.

22 2. The fact that the father and child relationship  
23 was declared after the child's birth shall not be  
24 ascertainable from the amended certificate but the  
25 actual place and date of birth shall be shown.

26 3. The evidence upon which the amended certificate  
27 was made and the original birth certificate shall  
28 be kept in a sealed and confidential file and be  
29 subject to inspection only upon consent of the court  
30 and all interested persons, or in exceptional cases  
31 only upon an order of the court for good cause shown.

32 Sec. 23. NEW SECTION. WHEN NOTICE OF ADOPTION  
33 PROCEEDING REQUIRED. If a mother relinquishes or  
34 proposes to relinquish for adoption a child who has  
35 either a presumed father under section four (4),  
36 subsection one (1) of this Act, or a father whose  
37 relationship to the child has been determined by a  
38 court, or a father as to whom the child is a legitimate  
39 child under prior law of this state or under the law  
40 of another jurisdiction, the father shall be given  
41 notice of the adoption proceeding and have the rights  
42 provided under chapter six hundred (600) of the Code,  
43 unless the father's relationship to the child has  
44 been previously terminated or determined by a court  
45 not to exist.

46 Sec. 24. NEW SECTION. PROCEEDING TO TERMINATE  
47 PARENTAL RIGHTS.

48 1. If a mother relinquishes or proposes to  
49 relinquish for adoption a child who does not have  
50 either a presumed father under section four (4),

Page 111 subsection one (1) of this Act, or a father whose  
2 relationship to the child has been determined by a  
3 court, or a father as to whom the child is a legitimate  
4 child under prior law of this state or under the law  
5 of another jurisdiction, or if a child otherwise  
6 becomes the subject of an adoption proceeding, a  
7 petition for termination of parental rights of the  
8 father shall be filed with the juvenile court pursuant  
9 to section six hundred A point five (600A.5) of the  
10 Code, unless the father's relationship to the child  
11 has been previously terminated or determined not to  
12 exist by a court.

13 2. In an effort to identify the natural father,  
14 the court shall cause inquiry to be made of the mother  
15 and any other appropriate person. The inquiry shall  
16 include the following: whether the mother was married  
17 at the time of conception of the child or at any time  
18 thereafter; whether the mother was cohabiting with  
19 a man at the time of conception or birth of the child;  
20 whether the mother has received support payments or  
21 promises of support with respect to the child or in  
22 connection with her pregnancy; or whether any man  
23 has formally or informally acknowledged or declared  
24 his possible paternity of the child.

25 3. If, after the inquiry, the natural father is  
26 identified to the satisfaction of the court, or if  
27 more than one man is identified as a possible father,  
28 each shall be given notice of the proceeding in  
29 accordance with section six hundred A point six  
30 (600A.6) of the Code. If any of them fails to appear  
31 or, if appearing, fails to claim custodial rights,  
32 his parental rights with reference to the child shall  
33 be terminated. If the natural father or a man  
34 representing himself to be the natural father, claims  
35 custodial rights, the court shall proceed to determine  
36 custodial rights.

37 4. If, after the inquiry, the court is unable  
38 to identify the natural father or any possible natural  
39 father and no person has appeared claiming to be the  
40 natural father and claiming custodial rights, the  
41 court shall enter an order terminating the unknown  
42 natural father's parental rights with reference to  
43 the child. Subject to the disposition of an appeal  
44 upon the expiration of six months after an order  
45 terminating parental rights is issued under this  
46 subsection, the order cannot be questioned by any  
47 person, in any manner, or upon any ground, including  
48 fraud, misrepresentation, failure to give any required  
49 notice, or lack of jurisdiction of the parties or  
50 of the subject matter.

5. Notice of the proceeding shall be given pursuant to section six hundred A point six (600A.6) of the Code.

Sec. 25. NEW SECTION. CUSTODY, GUARDIANSHIP AND VISITATION. The custody and guardianship of the child and visitation privileges with the child shall be determined in a proceeding separate and apart from any proceedings under this Act to determine paternity of the child and support. The child shall be made a party to such separate action. A general guardian or guardian ad litem appointed by the court shall represent a child who is minor. The child's mother or father shall not represent the child as guardian or otherwise. The court may appoint the department of social services as guardian ad litem for the child.

Sec. 26. NEW SECTION. WELFARE RECIPIENT--ASSIGNMENT OF SUPPORT PAYMENTS. Persons entitled to support payments pursuant to this Act who are also welfare recipients shall assign their rights to the payments to the department of social services, which may secure payments in default. The clerk of court shall forward support payments received pursuant to this Act to the department of social services and shall furnish the department with copies of all orders or decrees awarding support to parties having custody of minor children when the parties are receiving welfare assistance.

Sec. 27. Section one hundred forty-four point forty (144.40), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

144.40 PATERNITY OR MATERNITY OF CHILDREN. Upon order of a court of this state or upon request of a court of another state, the state registrar shall prepare an amended certificate of birth pursuant to the provisions of section twenty-three (23) of this Act.

Sec. 28. Section two hundred fifty-two B point three (252B.3), Code 1977, is amended to read as follows:

252B.3 DUTY OF DEPARTMENT TO ENFORCE CHILD SUPPORT. Upon receipt by the department of an application for public assistance on behalf of a child and determination by the department that the child has been abandoned by its parents or that the child and one parent have been abandoned by the other parent or that the parent or other person responsible for the care, support or maintenance of the child has failed or neglected to give proper care or support to the child, the department shall take appropriate

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Page 1B action under the provisions of this chapter or under  
2 other appropriate statutes of this state including  
3 but not limited to chapters 239, 252A, 598, and 675  
4 this Act, to insure that the parent or other person  
5 responsible for the support of the child fulfills  
6 the support obligation.

7 Sec. 29. Section two hundred fifty-two B point  
8 four (252B.4), Code 1977, is amended to read as  
9 follows:

10 252B.4 NONASSISTANCE CASES. The child support  
11 and paternity determination services established by  
12 the department pursuant to this Act and other  
13 appropriate services provided by law including but  
14 not limited to the provisions of chapters 239, 252A,  
15 598 and 675 this Act shall be made available by the  
16 unit to any individual not otherwise eligible as a  
17 public assistance recipient upon application by the  
18 individual for the services. The application shall  
19 be filed with the department. The commissioner may  
20 require an application fee not to exceed twenty dollars  
21 as determined by the commissioner. The commissioner  
22 may require an additional fee to cover the costs  
23 incurred by the department in providing the support  
24 collection and paternity determination services.  
25 The commissioner shall, by regulation, establish and  
26 make available to all applicants for support  
27 enforcement and paternity determination services a  
28 fee schedule, however, the fee shall not exceed ten  
29 percent of any support money recovered by department  
30 action. The fee for support collection and paternity  
31 determination services shall be agreed upon in writing  
32 by the individual requesting the services. The  
33 application fee and the additional fee for services  
34 provided may be deducted from the amount of the support  
35 money recovered by the department. Fees collected  
36 pursuant to this section shall be remitted to the  
37 treasurer of state who shall deposit them in the  
38 general fund of the state. The commissioner or a  
39 designee and the treasurer of state shall keep an  
40 accurate record of funds so remitted and deposited.

41 Sec. 30. Section two hundred fifty-two B point  
42 five (252B.5), subsection three (3), Code 1977, is  
43 amended to read as follows:

44 3. Aid in enforcing through court proceedings  
45 an existing court order for support issued pursuant  
46 to chapters 252A, 598, and 675 this Act.

47 Sec. 31. Section six hundred A point three  
48 (600A.3), Code 1977, is amended to read as follows:

49 600A.3 EXCLUSIVITY. Termination of parental  
50 rights shall be accomplished only according to the

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1 provisions of this chapter and this Act. However,  
2 termination of parental rights between an adult child  
3 and the child's parents may be accomplished by a  
4 decree of adoption establishing a new parent-child  
5 relationship.

6 Sec. 32. NEW SECTION. UNIFORMITY OF APPLICATION  
7 AND CONSTRUCTION. This Act shall be applied and  
8 construed to effectuate its general purpose to make  
9 uniform the law with respect to the subject of this  
10 Act among states enacting it.

11 Sec. 33. NEW SECTION. SHORT TITLE. This Act  
12 may be cited as the uniform parentage Act.

13 Sec. 34. Chapter six hundred seventy-five (675),  
14 Code 1977, is repealed.

15 Sec. 35. This Act is effective January 1, 1979."

16 2. Amend the title, by striking lines 1 and 2  
17 and inserting in lieu thereof the following:

18 . "An Act to enact the Uniform Parentage Act providing  
19 substantive equality for all children regardless of  
20 the marital status of their parents and providing  
21 for civil contempt:"

H-6684 FILED *adopted* BY NEWHARD of Jones

MAY 11, 1978 *amended by*  
*6704 5/12 (p. 2662)*

SENATE FILE 217

H-6704

1 Amend the Newhard amendment, H-6684, to Senate  
2 File 217 as amended and passed by the Senate as  
3 follows:

4 1. Page 1, by inserting after line 6 the follow-  
5 ing:

6 "1. "Child" means a person less than eighteen  
7 years of age."

8 2. Page 1, line 24, by striking the word "e=".

9 3. By striking page 4, line 48 through page 5,  
10 line 4 and inserting in lieu thereof the following:

11 "Sec. 9. NEW SECTION. PARTIES."

12 4. By renumbering paragraphs as necessary to  
13 conform with this amendment.

H-6704 FILED *adopted* BY NEWHARD of Jones

May 12, 1978 *5/12 (p. 2661)*