

Sec. 40. Section 641.1, Code 1993, is amended to read as follows:

641.1 INDEBTEDNESS DUE THE STATE.

In all cases in which any person is indebted to the state, or to any officer or agent thereof for the use or benefit of the state, the ~~proper county attorney or~~ attorney general shall demand payment or security therefor, when, in the opinion of said ~~county attorney or~~ the attorney general, the debt is not sufficiently secured.

Sec. 41. Section 641.2, Code 1993, is amended to read as follows:

641.2 ATTACHMENT AUTHORIZED.

In all actions for money due to the state, or to any agent or officer for the use of the state, it shall be lawful for an attachment to issue against the property or debts of the defendant not exempt from execution, upon the filing of an affidavit ~~by the county attorney of the proper county, or of the attorney general,~~ that the ~~county attorney or~~ attorney general verily believes that a specific amount therein stated is justly due, and the defendant therein has refused to pay or secure the same, and unless an attachment is issued against the property of the defendant there is danger that the amount due will be lost to the state.

Sec. 42. REPEALS.

1. Chapters 169B and 361, Code 1993, are repealed.
2. Sections 70A.24, 351.1 through 351.14, 351.17, 351.20, 351.22 through 351.24, 351.34, 427A.2 through 427A.6, 427A.9 through 427A.11, 428.10, and 568.2, Code 1993, are repealed.

Approved May 12, 1994

CHAPTER 1174

TERMINATION OF PARENTAL RIGHTS — ADOPTION PROCEDURES

H.F. 2377

AN ACT relating to termination of parental rights and adoption procedures, providing for applicability of the Act, providing penalties and an applicability provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 22.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Information contained in a declaration of paternity completed and filed with the state registrar of vital statistics pursuant to section 144.12A, except to the extent that the information may be provided to persons in accordance with section 144.12A.

Sec. 2. **NEW SECTION. 144.12A DECLARATION OF PATERNITY REGISTRY.**

1. As used in this section, unless the context otherwise requires:
 - a. "Child" means a person under eighteen years of age for whom paternity has not been established.
 - b. "Court" means the juvenile court.
 - c. "Father" means the male, biological parent of a child.
 - d. "Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the birth of the child.
 - e. "Registrant" means a person who has registered pursuant to this section and who claims to be the father of a child.
 - f. "Registrar" means the state registrar of vital statistics.
 - g. "Registry" means the declaration of paternity registry established in this section.

2. a. The registrar shall establish a declaration of paternity registry to record the name, address, social security number, and any other identifying information required by rule of the department of a putative father who wishes to register under this section prior to the birth of a child and no later than the date of the filing of the petition for termination of parental rights.

b. The declaration does not constitute an affidavit of paternity filed pursuant to section 252A.3 and declarations filed shall be maintained by the registrar in a registry distinct from the registry used to maintain affidavits of paternity filed pursuant to section 252A.3. A declaration of paternity filed with the registry may be used as evidence of paternity in an action to establish paternity or to determine a support obligation with respect to the putative father.

c. Failure or refusal to file a declaration of paternity shall not be used as evidence to avoid a legally established obligation of financial support for a child.

3. A person who files a declaration of paternity with the registrar shall include in the declaration all of the following:

a. The person's name, current address, social security number, and any other identifying information requested by the department. If the person filing the declaration of paternity changes the person's address, the person shall notify the registrar of the new address in a manner prescribed by the department.

b. The name, last known address, and social security number, if known, of the mother of the child, or any other identifying information requested by the department.

c. The name of the child, if known, and the date and location of the birth of the child, if known.

d. The registrar shall accept a declaration of paternity filed in accordance with this section.

e. The registrar shall forward a copy of the declaration to the mother as notification that the person has registered with the registry.

f. The registrar shall accept and immediately register, upon receipt, a declaration of paternity without a fee and without the signature of the biological mother. The registrar may charge a reasonable fee as established by rule of the department for processing searches of the registry.

4. The department shall, upon request, provide the name, address, social security number, and any other identifying information of a registrant to the biological mother of the child; a court; the department of human services; the attorney of any party to an adoption, termination of parental rights, or establishment of paternity or support action; or to the child support recovery unit for an action to establish paternity or support. The information shall not be divulged to any other person and shall be considered a confidential record as to any other person, except upon order of the court for good cause shown. If the registry has not received a declaration of paternity, the department shall provide a written statement to that effect to the person making the inquiry.

5. a. Information provided to the registry may be revoked by the registrant by submission of a written statement signed and acknowledged by the registrant before a notary public.

b. The statement shall include a declaration that to the best of the registrant's knowledge, the registrant is not the father of the named child or that paternity of the true father has been established.

c. Revocation shall be deemed a nullity and the information provided by the registrant shall be expunged.

d. Revocation is effective only following the birth of the child.

6. The department shall adopt rules necessary to implement and administer this section. The rules shall include establishment of sites throughout the state for local distribution of declaration of paternity registration forms.

Sec. 3. Section 232.116, subsection 1, paragraph d, subparagraph (3), Code Supplement 1993, is amended to read as follows:

(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, "significant and meaningful contact" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by

the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

Sec. 4. NEW SECTION. 232.168 ATTORNEY GENERAL TO ENFORCE.

The attorney general may, on the attorney general's own initiative, institute any criminal and civil actions and proceedings under this division, at whatever stage of placement necessary, to enforce the interstate compact on the placement of children, including, but not limited to, seeking enforcement of the provisions of the compact through the courts of a party state. The department of human services shall cooperate with the attorney general and shall refer any placement or proposed placement to the attorney general which may require enforcement measures.

Sec. 5. NEW SECTION. 238.43A CONTRACTS FOR SERVICES – LIABILITY FOR COSTS.

An agency which enters into a contract with a referral agency to provide child placement services is liable for the costs of services which are paid prior to the provision of services, if the services are not subsequently provided.

Sec. 6. Section 600.1, Code 1993, is amended to read as follows:

600.1 CONSTRUCTION.

This chapter shall be construed liberally. The welfare best interest of the person to be adopted shall be the paramount consideration in interpreting this division. However, the interests of the adopting parents shall be given due consideration in this interpretation. However, in determining the best interest of the person to be adopted and the interests of the adopting parents, any evidence of interests relating to a period of time during which the person to be adopted is placed with prospective adoptive parents and during which the placement is not in compliance with the law, adoption procedures, or any action by the court, shall not be considered in the determination.

Sec. 7. Section 600.9, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

600.9 REPORT OF EXPENDITURES.

1. a. A biological parent shall not receive any thing of value as a result of the biological parent's child or former child being placed with and adopted by another person, unless that thing of value is an allowable expense under subsection 2.

b. Any person assisting in any way with the placement or adoption of a minor person shall not charge a fee which is more than usual, necessary, and commensurate with the services rendered.

c. If the biological parent receives any prohibited thing of value, if a person gives a prohibited thing of value, or if a person charges a prohibited fee under this subsection, the person is guilty of a simple misdemeanor.

2. An adoption petitioner of a minor person shall file with the court, prior to the adoption hearing, a full accounting of all disbursements of any thing of value paid or agreed to be paid by or on behalf of the petitioner in connection with the petitioned adoption. This accounting shall be made by a report prescribed by the court and shall be signed and verified by the petitioner. Only expenses incurred in connection with the following and any other expenses approved by the court are allowable:

a. The birth of the minor person to be adopted.

b. Placement of the minor person with the adoption petitioner and legal expenses related to the termination of parental rights and adoption processes.

c. Pregnancy-related medical care received by the biological parents or the minor person during the pregnancy or delivery of the minor person and for medically necessary postpartum care for the biological parent and the minor person.

d. Living expenses of the mother, permitted in an amount not to exceed the cost of room and board or rent and food, and transportation, for medical purposes only, on a common carrier of persons or an ambulance, for no longer than thirty days after the birth of the minor person.

e. Costs of the counseling provided to the biological parents prior to the birth of the child, in accordance with section 600A.4, subsection 2, to the biological parents prior to the release of custody and any counseling provided to the biological parents for not more than sixty days after the birth of the child.

f. Living expenses of the minor person if the minor person is placed in foster care during the pendency of the termination of parental rights proceedings.

All payments for allowable expenses shall be made to the provider, if applicable, and not directly to the biological parents. The provisions of this subsection do not apply in a stepparent adoption.

Sec. 8. Section 600.11, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A person who has been granted visitation rights with the child to be adopted pursuant to section 598.35.

Sec. 9. Section 600.14, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The supreme court may adopt rules which provide for the expediting of contested cases under this chapter and chapter 600A.

Sec. 10. Section 600.16, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The provisions of this section also apply to information collected pursuant to section 600A.4, pertaining to the family medical history, medical and developmental history, and social history of the person to be adopted.

Sec. 11. Section 600.16, subsection 3, Code 1993, is amended to read as follows:

3. Any person other than the adopting parents or the adopted person, who discloses information in violation of this section, is guilty of a simple misdemeanor for the first offense, a serious misdemeanor for a second offense, and an aggravated misdemeanor for a third or subsequent offense.

Sec. 12. Section 600A.1, Code 1993, is amended to read as follows:

600A.1 CONSTRUCTION.

This chapter shall be construed liberally. The welfare best interest of the child subject to the proceedings of this chapter shall be the paramount consideration in interpreting this chapter. However, the interests of the parents of this child or any natural person standing in the place of the parents to this child shall be given due consideration in this interpretation.

The best interest of a child requires that each biological parent affirmatively assume the duties encompassed by the role of being a parent. In determining whether a parent has affirmatively assumed the duties of a parent, the court shall consider, but is not limited to consideration of, the fulfillment of financial obligations, demonstration of continued interest in the child, demonstration of a genuine effort to maintain communication with the child, and demonstration of the establishment and maintenance of a place of importance in the child's life. Application of this chapter is limited to termination of parental rights proceedings and shall not apply to actions to establish paternity or to overcome established paternity.

Sec. 13. Section 600A.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. "Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of birth of the child.

Sec. 14. Section 600A.4, subsection 2, Code 1993, is amended by adding the following new paragraphs after paragraph c and relettering the subsequent paragraphs:

NEW PARAGRAPH. d. Shall be preceded by the offering of three hours of counseling to the biological parents regarding the decision to release custody and the alternatives available to the biological parents in disposition of the child. The release of custody shall contain written acknowledgment of the offering of counseling to the biological parent and of acceptance or refusal of the counseling. If accepted, the counseling shall be provided after the birth of the child and prior to the signing of a release of custody or the filing of a petition for termination of parental rights as applicable. Counseling shall be provided only by a person who is qualified under rules adopted by the department of human services which shall include a requirement that the person complete a minimum number of hours of training in the area of adoption-related counseling approved by the department or, in the alternative, that the person has a minimum level of experience, as determined by rule of the department, in the provision of adoption-related counseling. The counselor shall provide an affidavit, which shall be attached to the release of custody, certifying that the counselor has provided the biological parent with the requested counseling or that the biological parent has refused counseling prior to the signing of the release of custody and documentation that the person is qualified to provide the requested counseling as prescribed by this paragraph. The requirements of this paragraph do not apply to a release of custody which is executed for the purposes of a stepparent adoption.

NEW PARAGRAPH. e. Shall contain a notice to the biological parent that if the biological parent chooses to identify the other biological parent and knowingly and intentionally identifies a person who is not the other biological parent in the written release of custody or in any other document related to the termination of parental rights proceedings, the biological parent who provides the incorrect identifying information is guilty of a simple misdemeanor.

NEW PARAGRAPH. f. Shall be accompanied by a report which includes, to the extent available, the complete family medical and social history of the person to be adopted including any known genetic, metabolic, or familial disorders and the complete medical and developmental history of the person to be adopted, and a social history of the minor child and the minor child's family but which does not disclose the identity of the biological parents of the person to be adopted. The social history may include but is not limited to the minor child's racial, ethnic, and religious background and a general description of the minor child's biological parents and an account of the minor child's prior and existing relationship with any relative, foster parent, or other individual with whom the minor child regularly lives or whom the child regularly visits.

A biological parent may also provide ongoing information to the adoptive parents, as additional medical or social history information becomes known, by providing information to the clerk of court, the department of human services, or the agency which made the placement, and may provide the current address of the biological parent. The clerk of court, the department of human services, or the agency which made the placement shall transmit the information to the adoptive parents if the address of the adoptive parents is known.

A person who furnishes a report required under this paragraph and the court shall not disclose any information upon which the report is based except as otherwise provided in this section and such a person is subject of* the penalties provided in section 600.16, as applicable. A person who is the subject of any report may bring a civil action against a person who discloses the information in violation of this section.

Information provided under this paragraph shall not be used as evidence in any civil or criminal proceeding against a person who is the subject of the information.

The department shall prescribe forms designed to obtain the family medical and social history and shall provide the forms at no charge to any agency or person who executes a release of custody of the minor child or who files a petition for termination of parental rights. The existence of this report does not limit a person's ability to petition the court for release of records in accordance with other provisions of law.

Sec. 15. Section 600A.4, subsection 2, paragraph d, Code 1993, is amended to read as follows:

*The word "to" probably intended.

d g. Shall be signed, not less than seventy-two hours after the birth of the child to be released, by all living parents. The seventy-two hour minimum time period requirement shall not be waived.

Sec. 16. Section 600A.6, subsection 1, Code 1993, is amended to read as follows:

1. A termination of parental rights under this chapter shall, unless provided otherwise in this section, be ordered only after notice has been served on all necessary parties and these parties have been given an opportunity to be heard before the juvenile court except that notice need not be served on the petitioner or on any necessary party who is spouse of the petitioner. "Necessary party" means any person whose name, residence, and domicile are required to be included on the petition under section 600A.5, subsection 3, paragraphs "a" and "b" and any putative father who files a declaration of paternity in accordance with section 144.12A, or any unknown putative father, if any, except a natural biological parent who has been convicted of having sexually abused the other natural biological parent while not cohabiting with that parent as husband and wife, thereby producing the birth of the child who is the subject of the termination proceedings.

Sec. 17. Section 600A.6, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who is appointed as a guardian ad litem for a minor child shall not also be the attorney for any party other than the minor child in any proceeding involving the minor child. The guardian ad litem may make an independent investigation of the interest of the child and may cause witnesses to appear before the court to provide testimony relevant to the best interest of the minor child.

Sec. 18. Section 600A.6, subsections 5 and 6, Code 1993, are amended by striking the subsections and inserting in lieu thereof the following:

5. A necessary party whose identity is known but whose location or address is unknown or all unknown putative fathers, if any, shall be served by published notice in the form provided in this subsection. If the identity of a necessary party is known but the location of the necessary party is unknown, notice by publication shall also include the name of the necessary party. The child's actual or expected date of birth and place of birth shall also be stated in the notice. Notice by publication shall be served according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. Notice by publication shall be published once a week for two consecutive weeks in a medium which is reasonably expected to provide notice to the necessary party, the last publication to be not less than three days prior to the hearing on termination of parental rights. The notice shall be substantially in the following form:

TO: _____ (OR) ALL PUTATIVE FATHERS OF A CHILD (EXPECTED TO BE) BORN ON THE _____ DAY OF _____, _____, IN _____, IOWA.

You are notified that there is now on file in the office of the clerk of court for _____ county, a petition in case number _____, which prays for a termination of your parent-child relationship to a child (expected to be) born on the _____ day of _____, _____. For further details contact the clerk's office. The petitioner's attorney is _____.

You are notified that there will be a hearing on the petition to terminate parental rights before the Iowa District Court For _____ County, at the Courthouse in _____, Iowa, at _____M. on the _____ day of _____, _____.

CLERK OF THE ABOVE COURT

Sec. 19. Section 600A.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If a putative father files a declaration of paternity pursuant to section 144.12A, the putative father or the mother of the child may request that paternity be established pursuant to section 600B.41 prior to the granting of a dismissal of the petition to terminate parental rights.

Sec. 20. Section 600A.9, subsection 2, Code 1993, is amended to read as follows:

2. If an order is issued under subsection 1, paragraph "b" of this section, the juvenile court shall retain jurisdiction to change a guardian or custodian and to allow a terminated parent or any putative biological parent to request vacation or appeal of the termination order if the child is not on placement for adoption or a petition for adoption of the child is not on file which request must be made within thirty days of issuance of the granting of the order. The period for request by a terminated parent or by a putative biological parent for vacation or appeal shall not be waived or extended and a vacation or appeal shall not be granted after the expiration of this period. The juvenile court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish a period of thirty days, which shall not be waived or extended, in which a terminated or putative biological parent may request a vacation or appeal of a termination order.

Sec. 21. **NEW SECTION.** 600A.9A TERMINATION PROCEDURES – PENALTY FOR VIOLATION.

1. Any biological parent who chooses to identify the other biological parent and who knowingly and intentionally identifies a person who is not the other biological parent in the written release of custody or in any other document related to the termination of parental rights proceedings is guilty of a simple misdemeanor.

2. Any person who accepts a release of custody under section 600A.4 prior to the expiration of the seventy-two-hour period required, is guilty of a serious misdemeanor.

Sec. 22. **PENDING PROCEEDINGS UNAFFECTED.** This Act does not apply to a termination of parental rights proceeding or an adoption proceeding pending on July 1, 1994.

Approved May 12, 1994

CHAPTER 1175

EDUCATIONAL FINANCES, ACTIVITIES, AND PROCEDURES

S.F. 2234

AN ACT relating to educational finances, activities, and procedures administered by or through the department of education.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 237A.1, subsection 4, paragraph a, Code Supplement 1993, is amended to read as follows:

a. An instructional program administered by a public or nonpublic school system accredited by the department of education or the state board of regents, except or a program provided under section 279.49 or 280.3A.

Sec. 2. Section 237A.12, unnumbered paragraphs 2, 3, 4, and 5, Code 1993, are amended to read as follows:

Rules promulgated adopted by the state fire marshal for buildings, other than school buildings, used as child care centers as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from