

CHAPTER 600B

PATERNITY AND OBLIGATION FOR SUPPORT

Referred to in §252A.3A, 252B.3, 252B.4, 252B.5, 252B.14, 252B.20, 252C.1, 252D.1, 252D.16, 252D.16A, 252E.1, 252E.1A, 252E.16, 252H.2, 252H.4, 252H.21, 252I.2, 252J.1, 598.21C, 598.21G, 598.22, 598.22B, 598.23A, 600.11, 602.6111, 602.8102(47)

[P]

See also chapters 252A – 252K

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600B.1 Obligation of parents.

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

[C27, 31, 35, §12667-a1; C39, §12667.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.1] C93, §600B.1

[P] Analogous provision, §252.2

600B.2 Recovery by mother from father.

The mother may recover from the father a reasonable share of the necessary support of the child.

[C27, 31, 35, §12667-a2; C39, §12667.02; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.2] C93, §600B.2

600B.3 Reserved.**600B.4 Recovery by others than mother.**

The obligation of the father as hereby provided creates also a cause of action on behalf of the legal representative of the mother, or on behalf of third persons furnishing support or defraying the reasonable expenses thereof, where paternity has been judicially established by proceedings brought by the mother or by or on behalf of the child or by the authorities

charged with its support, or where paternity has been acknowledged by the father in writing or by the part performance of the obligations imposed upon him.

[C27, 31, 35, §12667-a4; C39, §12667.04; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.4] C93, §600B.4

600B.5 Discharge of father's obligation.

The obligation of the father other than that under the laws providing for the support of poor relatives is discharged by complying with a judicial decree for support or with the terms of a judicially approved settlement. The legal adoption of a child into another family discharges the obligation for the period subsequent to the adoption, unless the adoption was fraudulently induced and the adoptive father's parental rights have been terminated and the order terminating the biological father's parental rights has been vacated in accordance with the procedures set out in section 600A.9, subsection 3.

[C27, 31, 35, §12667-a5; C39, §12667.05; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.5] 92 Acts, ch 1192, §4, 5
C93, §600B.5

94 Acts, ch 1046, §22
Referred to in §600B.41A

600B.6 Liability of the father's estate.

The obligation of the father, when his paternity has been judicially established in his lifetime, or has been acknowledged by him in writing or by the part performance of his obligations, is enforceable against his estate in such an amount as the court may determine, having regard to the age of the child, the ability of the mother to support it, the amount of property left by the father, the number, age, and financial condition of the lawful issue, if any, and the rights of the widow, if any. The court may direct the discharge of the obligation by periodical payments or by the payment of a lump sum.

[C27, 31, 35, §12667-a6; C39, §12667.06; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.6] C93, §600B.6
Referred to in §600B.22

600B.7 Proceedings to establish paternity.

Proceedings to establish paternity and to compel support by the father may be brought in accordance with the provisions of this chapter. They shall not be exclusive of other proceedings that may be available on principles of law and equity.

[C27, 31, 35, §12667-a7; C39, §12667.07; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.7] C93, §600B.7

[P] Additional reference, §252.3

600B.8 Who may institute proceedings.

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

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a8; C39, §12667.08; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.8] C93, §600B.8

600B.9 Time of instituting proceedings.

The proceedings may be instituted during the pregnancy of the mother or after the birth of the child, but, except with the consent of all parties, the trial shall not be held until after the birth of the child and shall be held no earlier than twenty days from the date the alleged father is served with notice of the action or, if blood or genetic tests are conducted, no earlier

than thirty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

[C27, 31, 35, §12667-a9; C39, §12667.09; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.9] C93, §600B.9
94 Acts, ch 1171, §43; 97 Acts, ch 175, §204

600B.10 Venue.

The action shall be by ordinary proceedings entitled in the name of the complainant against the defendant and shall be brought in the district court in the county in which the alleged father is permanently or temporarily resident, or in which the mother or the child resides or is found.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a10; C39, §12667.10; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.10] C93, §600B.10

600B.11 Nonresident complainant.

It is not a bar to the jurisdiction of the court, that the complaining mother or child resides in another state.

[C27, 31, 35, §12667-a11; C39, §12667.11; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.11] C93, §600B.11

600B.12 Complaint — where brought.

The complaint may be made to the county attorney.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a12; C39, §12667.12; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.12] C93, §600B.12

600B.13 Form of complaint — verification.

The complaint may be made in writing, or oral and in the presence of the complainant reduced to writing by the prosecuting attorney. It shall be verified by oath or affirmation of the complainant.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a13; C39, §12667.13; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.13] C93, §600B.13

600B.14 Substance of complaint.

The complainant shall charge the person named as defendant with being the father of the child.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a14; C39, §12667.14; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.14] C93, §600B.14

600B.15 Original notice.

An original notice shall be issued as in other civil cases, which notice shall be served as in ordinary actions.

[C51, §849; R60, §1417; C73, §4716; C97, §5630; C24, §12659; C27, 31, 35, §12667-a16; C39, §12667.15; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.15] C93, §600B.15

Referred to in §600B.24

[P] Manner of service, R.C.P. 1.302 - 1.315

600B.16 Lis pendens.

From the time of the filing of such complaint, a lien shall be created upon the real property of the accused in the county where the action is pending for the payment of any money and the performance of any order adjudged by the proper court.

[C51, §850; R60, §1418; C73, §4717; C97, §5631; C24, §12660; C27, 31, 35, §12667-a17; C39, §12667.16; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.16]
C93, §600B.16

600B.17 Writ of attachment.

The district court may order an attachment to issue thereon without bond, which order shall specify the amount of property to be seized thereunder, and may be revoked at any time by such court on a showing made for a revocation of the same, and on such terms as such court may deem proper in the premises.

[C73, §4718; C97, §5632; C24, §12661; C27, 31, 35, §12667-a18; C39, §12667.17; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.17]
C93, §600B.17

600B.18 Method of trial.

The trial shall be by the court, and shall be conducted as in other civil cases.

[C51, §851, 854; R60, §1419, 1422; C73, §4720; C97, §5634; C24, §12663; C27, 31, 35, §12667-a27; C39, §12667.18; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.18]
C93, §600B.18
97 Acts, ch 175, §205

600B.19 County attorney to prosecute.

The county attorney, on being notified of the facts justifying a complaint as provided in this chapter, or of the filing of such complaint, shall prosecute the matter in behalf of the complainant.

[C73, §4719; C97, §5633; C24, §12662; C27, 31, 35, §12667-a28; C39, §12667.19; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.19]
C93, §600B.19
Referred to in §331.756(77)

600B.20 Exclusion of bystanders.

Unless objection is raised by either party to the action the judge shall exclude from the hearing all persons except the employees of the court, witnesses, and immediate relatives of the parties involved.

[C27, 31, 35, §12667-a29; C39, §12667.20; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.20]
C93, §600B.20

600B.21 Death, absence or mental illness of mother — testimony receivable.

If after the complaint the mother dies or becomes mentally ill or cannot be found within the jurisdiction, the proceeding does not abate, but the child shall be substituted as complainant. The testimony of the mother taken by deposition as in other civil cases, may in any such case be read as evidence and in all cases shall be read as evidence if demanded by the defendant.

[C27, 31, 35, §12667-a31; C39, §12667.21; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.21]
C93, §600B.21
Referred to in §229.27

600B.22 Death of defendant.

In case of the death of the defendant the action may be prosecuted against the personal representative of the deceased with like effects as if he were living, subject as regards the measure of support to the provision of section 600B.6.

[C27, 31, 35, §12667-a32; C39, §12667.22; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.22]

C93, §600B.22

600B.23 Costs payable by county.

If the finding of the court be in favor of the defendant the costs of the action shall be paid by the county.

[C24, §12666; C27, 31, 35, §12667-a33; C39, §12667.23; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.23]

C93, §600B.23

97 Acts, ch 175, §206

600B.24 Judgment in general.

1. If the defendant, after being served with notice as required under section 600B.15, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the defendant in default and enter a default judgment.

2. Upon a finding of paternity against the defendant, the court shall enter a judgment against the defendant declaring paternity and ordering support of the child.

[C51, §855; R60, §1423; C73, §4721; C97, §5635; C24, §12664; C27, 31, 35, §12667-a35; C39, §12667.24; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.24]

C93, §600B.24

94 Acts, ch 1171, §44; 97 Acts, ch 175, §207

Referred to in §600B.25

600B.25 Form of judgment — contents of support order — evidence — costs.

1. Upon a finding of paternity pursuant to section 600B.24, the court shall establish the father's monthly support payment and the amount of the support debt accrued or accruing pursuant to section 598.21B. The support obligation shall include support of the child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age. The court may order the father to pay amounts the court deems appropriate for the past support and maintenance of the child and for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the birth of the child, and postnatal care of the child and the mother, and other medical support as defined in section 252E.1. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

2. A copy of a bill for the costs of prenatal care or the birth of the child shall be admitted as evidence, without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred.

[C51, §855; R60, §1423; C73, §4721; C97, §5635; C24, §12664; C27, 31, 35, §12667-a36; C39, §12667.25; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.25]

85 Acts, ch 100, §10; 87 Acts, ch 98, §2; 89 Acts, ch 166, §7; 90 Acts, ch 1224, §49

C93, §600B.25

97 Acts, ch 175, §208; 2005 Acts, ch 69, §56

Referred to in §600B.38

600B.26 Payment of attorney fees.

In a proceeding to determine custody or visitation, or to modify a paternity, custody, or visitation order under this chapter, the court may award the prevailing party reasonable attorney fees.

2007 Acts, ch 24, §1

600B.27 Payment to trustees.

The court may require the payment to be made to the mother, or to some person or corporation to be designated by the court as trustee. The payments shall be directed to be made to a trustee if the mother does not reside within the jurisdiction of the court.

[C27, 31, 35, §12667-a38; C39, §12667.27; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.27]

C93, §600B.27

600B.28 Report by trustee.

The trustee shall report to the court annually, or more often as directed by the court, the amounts received and paid over.

[C27, 31, 35, §12667-a39; C39, §12667.28; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.28]

C93, §600B.28

2005 Acts, ch 3, §101

600B.29 Desertion statute applicable.

The provisions of sections 726.3 through 726.5 relating to desertion and abandonment of children, have the same effect in cases of illegitimacy where paternity has been judicially established, or has been acknowledged by the father in writing or by the furnishing of support, as in cases of children born in wedlock.

[C27, 31, 35, §12667-a45; C39, §12667.29; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.29]

83 Acts, ch 101, §128

C93, §600B.29

600B.30 Repealed by 97 Acts, ch 175, § 217.**600B.31 Continuing jurisdiction.**

Subject to 28 U.S.C. § 1738B, the court has continuing jurisdiction over proceedings brought to compel support and to increase or decrease the amount thereof until the judgment of the court has been completely satisfied, and also has continuing jurisdiction to determine the custody in accordance with the interests of the child.

[C73, §4722; C97, §5636; C24, §12667; C27, 31, 35, §12667-a47; C39, §12667.31; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.31]

C93, §600B.31

96 Acts, ch 1141, §30

600B.31A Parties to and court issuing original order — notice.

If a proceeding is initiated in a court for an adoption involving the children of parents whose paternity, obligation for support, or custody determination has been determined under this chapter or for modification of a child support or custody order granted under this chapter, the following requirements shall be met if the proceedings are initiated in a court other than the court which issued the original order:

1. The party initiating the proceedings shall present to the court the names and addresses of the parties to the original proceeding, if known, as well as the name and place of the court which issued the original order and the date of the original order.

2. The court in which the proceedings are initiated shall cause notice of the proceedings to be served upon all the parties to the original order unless the parties are deceased.

The court in which the proceedings are initiated or any party to the proceedings may also request that a copy of the transcript of the proceedings of the court which issued the original order be made available for consideration in the new proceedings.

2006 Acts, ch 1096, §1

600B.32 Concurrence of remedies.

A criminal prosecution shall not be a bar to, or be barred by, civil proceedings to compel support; but money paid toward the support of the child shall be allowed for and accredited in determining or enforcing any civil liability.

[C27, 31, 35, §12667-a49; C39, §12667.32; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.32]

C93, §600B.32

600B.33 Limitations of actions.

1. An action to establish paternity and support under this chapter may be brought within the time limitations set forth in section 614.8.

2. Notwithstanding subsection 1, an action to establish paternity and support under this chapter may be brought concerning a person who was under age eighteen on August 16, 1984, regardless of whether any prior action was dismissed because a statute of limitations of less than eighteen years was then in effect. Such an action may be brought within the time limitations set forth in section 614.8, or until July 2, 1992, whichever is later.

90 Acts, ch 1224, §50

C91, §675.33

C93, §600B.33

600B.34 Repealed by 97 Acts, ch 175, § 220, 221. See chapter 252K.

600B.35 Reference to illegitimacy prohibited.

In all records, certificates, or other papers made or executed, other than birth records and certificates or records of judicial proceedings in which the question of birth out of wedlock is at issue, requiring a declaration by or notice to the mother of a child born out of wedlock, it shall be sufficient for all purposes to refer to the mother as the parent having the sole custody of the child or to the child as being in the sole custody of the mother and no explicit reference shall be made to illegitimacy, and the term biological shall be deemed equivalent to the term illegitimate when referring to parentage or birth out of wedlock.

[C27, 31, 35, §12667-a52; C39, §12667.35; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.35]

C93, §600B.35

94 Acts, ch 1046, §23

600B.36 Report to registrar of vital statistics.

Upon the entry of a judgment determining the paternity of a child the clerk of the district court shall notify in writing the state registrar of vital statistics of the name of the person against whom such judgment has been entered, together with such other facts disclosed by the records as may assist in identifying the record of the birth of the child as the same may appear in the office of said registrar. If such judgment shall thereafter be vacated that fact shall be reported by the clerk in the same manner.

[C27, 31, 35, §12667-a53; C39, §12667.36; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.36]

C93, §600B.36

94 Acts, ch 1046, §24

Referred to in §252E.7, 602.8102(119)

600B.37 Contempt.

If the father fails to comply with or violates the terms or conditions of a support order made pursuant to the provisions of this chapter, he shall be punished by the court in the same manner and to the same extent as is provided by law for a contempt of such court in any other suit or proceeding cognizable by such court.

[C73, 75, 77, 79, 81, §675.37]

C93, §600B.37

600B.38 Recipients of public assistance — assignment of support payments.

1. If public assistance is provided by the department of human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or on behalf of the child or caretaker, not to exceed the amount of public assistance paid for or on behalf of the child or caretaker as follows:

- a. For family investment program assistance, section 239B.6 shall apply.
- b. For foster care services, section 234.39 shall apply.
- c. For medical assistance, section 252E.11 shall apply.

2. The department shall immediately notify the clerk of court by mail when such a child or caretaker has been determined to be eligible for public assistance. Upon notification by the department, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. For public assistance approved and provided on or after July 1, 1997, if the applicant for public assistance is a person other than a parent of the child, the department shall send notice by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 600B.25, to which the department is entitled, to the department, which may secure support payments in default through other proceedings.

3. The clerk shall furnish the department with copies of all orders or decrees and temporary or domestic abuse orders addressing support when the parties are receiving public assistance or services are otherwise provided by the child support recovery unit. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

[C77, 79, 81, §675.38; 82 Acts, ch 1237, §5]

83 Acts, ch 96, §157, 159

C93, §600B.38

97 Acts, ch 175, §209; 2008 Acts, ch 1019, §6, 7

600B.39 “Child” defined.

For the purposes of this chapter, “*child*” means a person less than eighteen years of age.

[C81, §675.39]

87 Acts, ch 98, §2

C93, §600B.39

600B.40 Custody and visitation.

The mother of a child born out of wedlock whose paternity has not been acknowledged and who has not been adopted has sole custody of the child unless the court orders otherwise. If a judgment of paternity is entered, the father may petition for rights of visitation or custody in the same paternity action or in an equity proceeding separate from any action to establish paternity.

In determining the visitation or custody arrangements of a child born out of wedlock, if a judgment of paternity is entered and the mother of the child has not been awarded sole custody, section 598.41 shall apply to the determination, as applicable, and the court shall consider the factors specified in section 598.41, subsection 3, including but not limited to the factor related to a parent's history of domestic abuse.

[C81, §675.40]

C93, §600B.40

95 Acts, ch 182, §27; 2004 Acts, ch 1061, §2

600B.40A Temporary orders — support, custody, or visitation of a child.

Upon petition of either parent in a proceeding involving support, custody, or visitation of a child for whom paternity has been established and whose mother and father have not been and are not married to each other at the time of filing of the petition, the court may issue a temporary order for support, custody, or visitation of the child. The temporary orders shall

be made in accordance with the provisions relating to issuance of and changes in temporary orders for support, custody, or visitation of a child by the court in a dissolution of marriage proceeding pursuant to chapter 598.

97 Acts, ch 160, §1

600B.41 Blood and genetic tests.

1. In a proceeding to establish paternity in law or in equity the court may on its own motion, and upon request of a party shall, require the child, mother, and alleged father to submit to blood or genetic tests.

2. If a blood or genetic test is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results and to report to the court. Appropriate testing procedures shall include any genetic test generally acknowledged as reliable by accreditation bodies designated by the secretary of the United States department of health and human services and which are performed by a laboratory approved by such an accreditation body.

3. Verified documentation of the chain of custody of the blood or genetic specimen is competent evidence to establish the chain of custody. The testimony of the court-appointed expert at trial is not required.

4. A verified expert's report shall be admitted at trial. A copy of a bill for blood or genetic testing shall be admitted as evidence, without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for blood or genetic testing.

5. The results of the tests shall have the following effects:

a. Test results which show a statistical probability of paternity are admissible. To challenge the test results, a party shall file a notice of the challenge, with the court, no later than twenty days after the filing of the expert's report with the clerk of the district court.

(1) Any subsequent rescheduling or continuances of the originally scheduled hearing shall not extend the original time frame.

(2) Any challenge filed after the time frame is not acceptable or admissible by the court.

(3) If a challenge is not timely filed, the test results shall be admitted as evidence of paternity without the need of additional proof of authenticity or accuracy.

b. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the alleged father is the father, and this evidence must be admitted.

(1) To challenge this presumption of paternity, a party must file a notice of the challenge with the court within the time frames prescribed in paragraph "a".

(2) The party challenging the presumption of the alleged father's paternity has the burden of proving that the alleged father is not the father of the child.

(3) The presumption of paternity can be rebutted only by clear and convincing evidence.

c. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than ninety-five percent, test results shall be weighed along with other evidence of the alleged father's paternity. To challenge the test results, a party must file a notice of the challenge with the court within the time frames prescribed in paragraph "a".

6. If the results of the tests or the expert's analysis of inherited characteristics is disputed in a timely fashion, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or an independent laboratory at the expense of the party requesting additional testing. When a subsequent test is conducted, all time frames prescribed in this chapter associated with blood or genetic tests shall apply to the most recently completed test.

7. All costs shall be paid by the parties or parents in proportions and at times determined by the court, except as otherwise provided pursuant to section 600B.41A.

[C81, §675.41]

92 Acts, ch 1195, §210

C93, §600B.41

93 Acts, ch 79, §22, 23; 94 Acts, ch 1171, §45 – 47, 52; 95 Acts, ch 52, §9; 97 Acts, ch 175, §210, 211

Referred to in §252A.6A, 600A.7, 600B.9, 600B.41A

600B.41A Actions to overcome paternity — applicability — conditions.

1. Paternity which is legally established may be overcome as provided in this section if subsequent blood or genetic testing indicates that the previously established father of a child is not the biological father of the child. Unless otherwise provided in this section, this section applies to the overcoming of paternity which has been established according to any of the means provided in section 252A.3, subsection 10, by operation of law when the established father and the mother of the child are or were married to each other, or as determined by a court of this state under any other applicable chapter.

2. This section does not apply to any of the following:

a. A paternity determination made in or by a foreign jurisdiction or a paternity determination which has been made in or by a foreign jurisdiction and registered in this state in accordance with section 252A.18 or chapter 252K.

b. A paternity determination based upon a court or administrative order if the order was entered based upon blood or genetic test results which demonstrate that the alleged father was not excluded and that the probability of the alleged father's paternity was ninety-five percent or higher, unless the tests were conducted prior to July 1, 1992.

3. Establishment of paternity may be overcome under this section if all of the following conditions are met:

a. The action to overcome paternity is filed with the court prior to the child reaching majority.

(1) A petition to overcome paternity may be filed only by the mother of the child, the established father of the child, the child, or the legal representative of any of these parties.

(2) If paternity was established by court or administrative order, a petition to overcome paternity shall be filed in the county in which the order is filed.

(3) In all other determinations of paternity, a petition to overcome paternity shall be filed in an appropriate county in accordance with the rules of civil procedure.

b. The petition contains, at a minimum, all of the following:

(1) The legal name, age, and domicile, if any, of the child.

(2) The names, residences, and domicile of the following:

(a) Living parents of the child.

(b) Guardian of the child.

(c) Custodian of the child.

(d) Guardian ad litem of the child.

(e) Petitioner.

(f) Person standing in the place of the parents of the child.

(3) A plain statement that the petitioner believes that the established father is not the biological father of the child, any reasons for this belief, and that the petitioner wishes to have the paternity determination set aside.

(4) A plain statement explaining why the petitioner does not know any of the information required under subparagraphs (1) and (2).

c. Notice of the action to overcome paternity is served on any parent of the child not initiating the action and any assignee of the support obligation, in accordance with the rules of civil procedure and in accordance with the following:

(1) If enforcement services are being provided by the child support recovery unit pursuant to chapter 252B, notice shall also be served on the child support recovery unit.

(2) The responding party shall have twenty days from the date of the service of the notice to file a written response with the court.

d. A guardian ad litem is appointed for the child.

e. Blood or genetic testing is conducted in accordance with section 600B.41 or chapter 252F.

(1) Unless otherwise specified pursuant to subsection 2 or 9, blood or genetic testing shall be conducted in an action to overcome the establishment of paternity.

(2) Unless otherwise specified in this section, section 600B.41 applies to blood or genetic tests conducted as the result of an action brought to overcome paternity.

(3) The court may order additional testing to be conducted by the expert or an independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

f. The court finds all of the following:

(1) That the conclusion of the expert as disclosed by the evidence based upon blood or genetic testing demonstrates that the established father is not the biological father of the child.

(2) If paternity was established pursuant to section 252A.3A, the signed affidavit was based on fraud, duress, or material mistake of fact, as shown by the petitioner.

4. If the court finds that the establishment of paternity is overcome, in accordance with all of the conditions prescribed, the court shall enter an order which provides all of the following:

a. That the established father is relieved of any and all future support obligations owed on behalf of the child from the date that the order determining that the established father is not the biological father is filed.

b. That any unpaid support due prior to the date the order determining that the established father is not the biological father is filed, is satisfied.

5. An action brought under this section shall be heard and decided by the court, and shall not be subject to a jury trial.

6. *a.* If the court determines that test results conducted in accordance with section 600B.41 or chapter 252F exclude the established father as the biological father, the court may dismiss the action to overcome paternity and preserve the paternity determination only if all of the following apply:

(1) The established father requests that paternity be preserved and that the parent-child relationship, as defined in section 600A.2, be continued.

(2) The court finds that it is in the best interest of the child to preserve paternity. In determining the best interest of the child, the court shall consider all of the following:

(*a.*) The age of the child.

(*b.*) The length of time since the establishment of paternity.

(*c.*) The previous relationship between the child and the established father, including but not limited to the duration and frequency of any time periods during which the child and established father resided in the same household or engaged in a parent-child relationship as defined in section 600A.2.

(*d.*) The possibility that the child could benefit by establishing the child's actual paternity.

(*e.*) Additional factors which the court determines are relevant to the individual situation.

(3) The biological father is a party to the action and does not object to termination of the biological father's parental rights, or the established father petitions the court for termination of the biological father's parental rights and the court grants the petition pursuant to chapter 600A.

b. If the court dismisses the action to overcome paternity and preserves the paternity determination under this subsection, the court shall enter an order establishing that the parent-child relationship exists between the established father and the child, and including establishment of a support obligation pursuant to section 598.21B and provision of custody and visitation pursuant to section 598.41.

7. *a.* For any order entered under this section on or before May 21, 1997, in which the court's determination excludes the established father as the biological father but dismisses the action to overcome paternity and preserves paternity, the established father may petition the court to issue an order which provides all of the following:

(1) That the parental rights of the established father are terminated.

(2) That the established father is relieved of any and all future support obligations owed on behalf of the child from the date the order under this subsection is filed.

b. The established father may proceed pro se under this subsection. The supreme court

shall prescribe standard forms for use under this subsection and shall distribute the forms to the clerks of the district court.

c. If a petition is filed pursuant to this section and notice is served on any parent of the child not filing the petition and any assignee of the support obligation, the court shall grant the petition.

8. The costs of testing, the fee of the guardian ad litem, and all court costs shall be paid by the person bringing the action to overcome paternity.

9. This section shall not be construed as a basis for termination of an adoption decree or for discharging the obligation of an adoptive father to an adoptive child pursuant to section 600B.5.

10. Unless specifically addressed in an order entered pursuant to this section, provisions previously established by the court order regarding custody or visitation of the child are unaffected by an action brought under this section.

11. Participation of the child support recovery unit created in section 252B.2 in an action brought under this section shall be limited as follows:

a. The unit shall only participate in actions if services are being provided by the unit pursuant to chapter 252B.

b. When services are being provided by the unit under chapter 252B, the unit may enter an administrative order for blood and genetic tests pursuant to chapter 252F.

c. The unit is not responsible for or required to provide for or assist in obtaining blood or genetic tests in any case in which services are not being provided by the unit.

d. The unit is not responsible for the costs of blood or genetic testing conducted pursuant to an action brought under this section.

e. Pursuant to section 252B.7, subsection 4, an attorney employed by the unit represents the state in any action under this section. The unit's attorney is not the legal representative of the mother, the established father, or the child in any action brought under this section.

94 Acts, ch 1171, §48, 52; 97 Acts, ch 175, §212 – 216, 218, 219, 221; 98 Acts, ch 1074, §32; 2005 Acts, ch 69, §57

Referred to in §252A.6A, 252C.4, 598.21E, 600B.41

600B.42 Security for payment of support — forfeiture.

Upon entry of an order for support or upon the failure of a father to make payments pursuant to an order for support, the court may require the father to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the father's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

85 Acts, ch 100, §11

CS85, §675.42

C93, §600B.42