

**252F.3 Notice of alleged paternity and support debt — conference — request for hearing.**

1. The unit may prepare a notice of alleged paternity and support debt to be served on a party if the mother of the child or a government official with knowledge of the circumstances of possible paternity relying on government records provides a written statement to the department of human services certifying in accordance with section 622.1 that the putative father is or may be the biological father of the child or children involved. The notice shall be accompanied by a copy of the statement and served on the putative father in accordance with rule of civil procedure 1.305. Service upon the mother shall not constitute valid service upon the putative father. The notice shall include or be accompanied by all of the following:

a. The name of the recipient of services under chapter 252B and the name and birth date of the child or children involved.

b. A statement that the putative father has been named as the biological father of the child or children named.

c. A statement that if paternity is established, the amount of the putative father's monthly support obligation and the amount of the support debt accrued and accruing will be established in accordance with the guidelines established in section 598.21B, and the criteria established pursuant to section 252B.7A.

d. A statement that if paternity is established, a party has a duty to provide accrued and accruing medical support to the child or children in accordance with chapter 252E.

e. A written explanation of the procedures for determining the child support obligation and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.

f. (1) The right of a party to request a conference with the unit to discuss paternity establishment and the amount of support that a party may be required to provide, within ten days of the date of service of the original notice or, if paternity is contested and paternity testing is conducted, within ten days of the date the paternity test results are issued or mailed to a party by the unit.

(2) A statement that if a conference is requested, a party shall have one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:

(a) Ten days from the date set for the conference.

(b) Twenty days from the date of service of the original notice.

(c) If paternity was contested and paternity testing was conducted, and a party does not deny paternity after the testing or challenge the paternity test results, twenty days from the date paternity test results are issued or mailed by the unit to the party.

(3) A statement that after the holding of the conference, the unit shall issue a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, to be provided in person to each party or sent to each party by regular mail addressed to the party's last known address or, if applicable, to the last known address of the party's attorney.

(4) A statement that if the unit issues a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, a party shall have one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:

(a) Ten days from the date of issuance of the new notice.

(b) Twenty days from the date of service of the original notice.

(c) If paternity was contested and paternity testing conducted, and a party does not deny paternity after the testing or challenge the paternity test results, twenty days from the date the paternity test results are issued or mailed to the party by the unit.

g. A statement that if a conference is not requested, and a party does not deny paternity or challenge the results of any paternity testing conducted but objects to the finding of financial responsibility or the amount of child support or medical support, or both, the party shall send a written request for a court hearing on the issue of support to the unit within twenty days of the date of service of the original notice, or, if paternity was contested and paternity testing conducted, and a party does not deny paternity after the testing or challenge the paternity

test results, within twenty days from the date the paternity test results are issued or mailed to the party by the unit, whichever is later.

*h.* A statement that if a timely written request for a hearing on the issue of support is received by the unit, the party shall have the right to a hearing to be held in district court and that if no timely written request is received and paternity is not contested, the administrator shall enter an order establishing the putative father as the father of the child or children and establishing child support or medical support, or both, in accordance with the notice of alleged paternity and support debt.

*i.* A written explanation of the rights and responsibilities associated with the establishment of paternity.

*j.* A written explanation of a party's right to deny paternity, the procedures for denying paternity, and the consequences of the denial.

*k.* A statement that if a party contests paternity, the party shall have twenty days from the date of service of the original notice to submit a written denial of paternity to the unit.

*l.* A statement that if paternity is contested, the unit shall, at the request of the party contesting paternity or on its own initiative, enter an administrative order requiring the putative father, mother, and child or children involved, to submit to paternity testing.

*m.* A statement that if paternity tests are conducted, the unit shall provide a copy of the test results to each party in person or send a copy to each party by regular mail, addressed to the party's last known address, or, if applicable, to the last known address of the party's attorney.

*n.* A statement setting forth the time frames for contesting paternity after paternity tests are conducted.

*o.* Other information as the unit finds appropriate.

2. The time limitations established for the notice provisions under subsection 1 are binding unless otherwise specified in this chapter or waived pursuant to section 252F.8.

3. *a.* If notice is served on a party, the unit shall file a true copy of the notice and the original return of service with the appropriate clerk of the district court as follows:

(1) In the county in which the child or children reside if the action is for purposes of establishing paternity and future child or medical support, or both.

(2) In the county in which the child or children involved last received public assistance benefits in the state, if the action is for purposes of establishing paternity and child or medical support, or both, only for prior periods of time when the child or children received public assistance, and no ongoing child or medical support obligation is to be established by this action.

(3) If the action is the result of a request from a foreign jurisdiction to establish paternity of a putative father located in Iowa, in the county in which the putative father resides.

*b.* All subsequent documents filed or court hearings held related to the action shall be in the district court in the county in which notice was filed pursuant to this subsection. The clerk shall file and docket the action.

4. A party or the child support recovery unit may request a court hearing regarding establishment of paternity or a determination of support, or both.

*a.* Upon receipt of a timely written response requesting a hearing or on its own initiative, the unit shall certify the matter for hearing in the district court in the county where the original notice of alleged paternity and support debt is filed, in accordance with section 252F.5.

*b.* If paternity establishment was contested and paternity tests conducted, a court hearing on the issue of paternity shall be held no earlier than thirty days from the date paternity test results are issued to all parties by the unit, unless the parties mutually agree to waive the time frame pursuant to section 252F.8.

*c.* Any objection to the results of paternity tests shall be filed no later than twenty days after the date paternity test results are issued or mailed to each party by the unit. Any objection to paternity test results filed by a party more than twenty days after the date paternity tests are issued or mailed to the party by the unit shall not be accepted or considered by the court.

5. If a timely written response and request for a court hearing is not received by the unit

and a party does not deny paternity, the administrator shall enter an order in accordance with section 252F.4.

6. *a.* If a party contests the establishment of paternity, the party shall submit, within twenty days of service of the notice on the party under subsection 1, a written statement contesting paternity establishment to the unit. Upon receipt of a written challenge of paternity establishment, or upon initiation by the unit, the administrator shall enter ex parte administrative orders requiring the mother, child or children involved, and the putative father to submit to paternity testing. Either the mother or putative father may contest paternity under this chapter.

*b.* The orders shall be filed with the clerk of the district court in the county where the notice was filed and have the same force and effect as a court order for paternity testing.

*c.* The unit shall issue copies of the respective administrative orders for paternity testing to the mother and putative father in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each.

*d.* If a paternity test is ordered under this section, the administrator shall direct that inherited characteristics be analyzed and interpreted, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results. The test shall be of a type generally acknowledged as reliable by accreditation entities designated by the secretary of the United States department of health and human services and shall be performed by a laboratory approved by an accreditation entity.

*e.* The party contesting paternity shall be provided one opportunity to reschedule the paternity testing appointment if the testing is rescheduled prior to the date of the originally scheduled appointment.

*f.* An original copy of the test results shall be filed with the clerk of the district court in the county where the notice was filed. The child support recovery unit shall issue a copy of the filed test results to each party in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each. However, if the action is the result of a request from a foreign jurisdiction, the unit shall issue a copy of the results to the initiating agency in that foreign jurisdiction.

*g.* Verified documentation of the chain of custody of the blood or genetic specimens is competent evidence to establish the chain of custody. The testimony of the appointed expert is not required. A verified expert's report of test results which indicate a statistical probability of paternity is sufficient authenticity of the expert's conclusion.

*h.* A verified expert's report shall be admitted as evidence to establish administrative paternity, and, if a court hearing is scheduled to resolve the issue of paternity, shall be admitted as evidence and is admissible at trial.

*i.* If the verified expert concludes that the test results show that the putative father is not excluded and that the probability of the putative father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the putative father is the biological father, and the evidence shall be sufficient as a basis for administrative establishment of paternity.

(1) In order to challenge the presumption of paternity, a party shall file a written notice of the challenge with the district court within twenty days from the date the paternity test results are issued or mailed to all parties by the unit. Any challenge to a presumption of paternity resulting from paternity tests, or to paternity test results filed after the lapse of the twenty-day time frame shall not be accepted or admissible by the unit or the court.

(2) A copy of the notice challenging the presumption of paternity shall be provided to any other party in person, or by mailing the notice to the last known address of each party, or if applicable, to the last known address of each party's attorney.

(3) The party challenging the presumption of paternity has the burden of proving that the putative father is not the father of the child.

(4) The presumption of paternity may be rebutted only by clear and convincing evidence.

*j.* If the verified expert concludes that the test results indicate that the putative father is not excluded and that the probability of the putative father's paternity is less than ninety-five percent, the administrator shall order a subsequent administrative paternity test or certify the case to the district court for resolution in accordance with the procedures and time frames specified in paragraph "i" and section 252F.5.

*k.* If the results of the test or the verified expert's analysis are timely challenged as provided in this subsection, the administrator, upon the request of a party and advance payment by the contestant or upon the unit's own initiative, shall order that an additional test be performed by the same laboratory or an independent laboratory. If the party requesting additional testing does not advance payment, the administrator shall certify the case to the district court in accordance with paragraph "i" and section 252F.5.

*l.* When a subsequent paternity test is conducted, the time frames in this chapter associated with paternity tests shall apply to the most recently completed test.

*m.* If the paternity test results exclude the putative father as a potential biological father of the child or children, and additional tests are not requested by either party or conducted on the unit's initiative, or if additional tests exclude the putative father as a potential biological father, the unit shall withdraw its action against the putative father and shall file a notice of the withdrawal with the clerk of the district court, and shall provide a copy of the notice to each party in person, or by regular mail sent to each party's last known address, or if applicable, the last known address of the party's attorney.

*n.* Except as provided in paragraph "k", the unit shall advance the costs of genetic testing. If paternity is established and paternity testing was conducted, the unit shall enter an order or, if the action proceeded to a court hearing, request that the court enter a judgment for the costs of the paternity tests consistent with applicable federal law. In a proceeding under this chapter, a copy of a bill for genetic testing shall be admitted as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of the amount incurred for genetic testing.

93 Acts, ch 79, §16; 94 Acts, ch 1171, §32; 96 Acts, ch 1141, §5, 6; 97 Acts, ch 175, §77 – 84; 2005 Acts, ch 69, §17; 2007 Acts, ch 218, §169 – 175, 187; 2008 Acts, ch 1019, §18, 20; 2009 Acts, ch 41, §263; 2010 Acts, ch 1069, §29; 2012 Acts, ch 1061, §1

Referred to in §234.39, 252F.4, 252F.5, 252F.6

[SP] For transition provisions applicable to existing child support recovery unit rules, procedures, definitions, and requirements, and for nullification of 441 IAC rule 98.3, see 2007 Acts, ch 218, §186