

Senate File 2254 - Introduced

SENATE FILE 2254
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3026)

A BILL FOR

1 An Act relating to paternity in certain actions before the
2 juvenile court.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 39, Code 2022, is
2 amended to read as follows:

3 39. "Parent" means a biological or adoptive mother or father
4 of a child; or a father whose paternity has been established
5 by one of the methods enumerated in section 252A.3, subsection
6 10, or by operation of law due to the individual's established
7 father's marriage to the mother at the time of conception,
8 birth, or at any time during the period between conception
9 and birth of the child, ~~by order of a court of competent~~
10 jurisdiction, or ~~by administrative order when authorized~~
11 by state law. "Parent" does not include a mother or father
12 whose parental rights have been terminated or a father whose
13 paternity has been overcome pursuant to section 232.3A or
14 600B.41A.

15 Sec. 2. NEW SECTION. 232.3A Authority relating to action
16 to overcome paternity in a child in need of assistance or
17 termination of parental rights proceeding.

18 1. During an action under subchapter III, child in need
19 of assistance proceedings, or subchapter IV, termination of
20 parent-child relationship proceedings of this chapter, the
21 court may on its own motion or that of any party, require the
22 child and established father of the child to submit to blood or
23 genetic testing in accordance with the procedures and method
24 prescribed under section 600B.41 to overcome the paternity of
25 the established father.

26 2. The juvenile court may enter an order overcoming
27 paternity of an established father pursuant to section 600B.41A
28 if all of the following conditions are met:

29 a. The child has been adjudicated a child in need of
30 assistance in an active juvenile court case and a dispositional
31 order in that case is in place.

32 b. Paternity of the child has been legally established,
33 including by one of the methods enumerated in section 252A.3,
34 subsection 10, or by operation of law due to the established
35 father's marriage to the mother at the time of conception,

1 birth, or at any time during the period between conception and
2 the birth of the child.

3 c. Pursuant to section 600B.41, the conclusion of the
4 expert as disclosed by the evidence based upon blood or genetic
5 testing demonstrates that the established father is not the
6 biological father of the child.

7 d. The established father agrees that the established
8 father's paternity should be overcome or the established father
9 objects to having his paternity overcome but the court finds
10 that it is in the best interest of the child to overcome the
11 established father's paternity.

12 3. When the criteria specified in subsection 2 are met, the
13 juvenile court shall enter an order overcoming paternity, and
14 shall send a copy of the order to the clerk of the district
15 court. The juvenile court shall designate the petitioner and
16 respondent for the purposes of the order.

17 4. Upon receipt of the order by the district court, the
18 clerk of the district court shall docket the case. Filing
19 fees and other court costs shall not be assessed against the
20 parties.

21 5. The district court shall take judicial notice of the
22 juvenile file in any hearing related to the case. Records
23 contained in the district court case file that were copied or
24 transferred from the juvenile court file concerning the case
25 shall be subject to section 232.147 and other confidentiality
26 provisions of this chapter for cases not involving juvenile
27 delinquency, and shall be disclosed, upon request, to the child
28 support recovery unit without a court order.

29 6. If paternity testing is completed and the established
30 father is not excluded as the biological father of the child,
31 the juvenile court shall find the established father to be the
32 biological father of the child and a necessary party to the
33 action.

34 7. Nothing in this section shall be construed to require
35 appointment of counsel for the parties in the district court

1 action.

2 Sec. 3. Section 232.103A, subsection 1, paragraph b, Code
3 2022, is amended to read as follows:

4 *b.* Paternity of the child has been legally established by
5 one of the methods enumerated in section 252A.3, subsection
6 10, including or by operation of law due to the individual's
7 established father's marriage to the mother at the time of
8 conception, birth, or at any time during the period between
9 conception and birth of the child, ~~by order of a court of~~
10 ~~competent jurisdiction, or by administrative order when~~
11 ~~authorized by state law.~~

12 Sec. 4. Section 252A.6A, subsection 2, paragraph a,
13 subparagraph (1), Code 2022, is amended to read as follows:

14 (1) ~~If the prior determination of paternity is based on an~~
15 ~~affidavit of paternity filed pursuant to section 252A.3A, or an~~
16 ~~administrative order entered pursuant to chapter 252F has been~~
17 legally established by one of the methods enumerated in section
18 252A.3, subsection 10, or an order by the courts of this
19 state, or by operation of law when the mother and due to the
20 established father are or were married to each other father's
21 marriage to the mother at the time of conception, birth, or at
22 any time during the period between conception and birth of the
23 child, the provisions of section 600B.41A are applicable.

24 Sec. 5. Section 252A.6A, subsection 2, paragraph b, Code
25 2022, is amended to read as follows:

26 *b.* ~~If~~ Notwithstanding paragraph "a", subparagraph (1),
27 if the prior determination of paternity is based on an
28 administrative or court order or by any other means, pursuant
29 to the laws of another state or foreign country, an action to
30 overcome the prior determination of paternity shall be filed in
31 that jurisdiction. Unless the party requests and is granted a
32 stay of an action to establish child or medical support, the
33 action shall proceed as otherwise provided.

34 Sec. 6. Section 252C.4, subsection 7, paragraph a,
35 subparagraph (1), Code 2022, is amended to read as follows:

1 ~~(1) If the prior determination of paternity is based on an~~
2 ~~affidavit of paternity filed pursuant to [section 252A.3A](#), or an~~
3 ~~administrative order entered pursuant to [chapter 252F](#) has been~~
4 legally established by one of the methods enumerated in section
5 252A.3, subsection 10, or an order by the courts of this
6 ~~state, or by operation of law when the mother and~~ due to the
7 ~~established father are or were married to each other~~ father's
8 marriage to the mother at the time of conception, birth, or at
9 any time during the period between conception and birth of the
10 child, the provisions of [section 600B.41A](#) are applicable.

11 Sec. 7. Section 252C.4, subsection 7, paragraph b, Code
12 2022, is amended to read as follows:

13 ~~b. If~~ Notwithstanding paragraph "a", subparagraph (1),
14 if the prior determination of paternity is based on an
15 administrative or court order or other means, pursuant to the
16 laws of another state or foreign country, an action to overcome
17 the prior determination of paternity shall be filed in that
18 jurisdiction. Unless the responsible person requests and is
19 granted a stay of an action initiated under [this chapter](#) to
20 establish child or medical support, the action shall proceed as
21 otherwise provided by [this chapter](#).

22 Sec. 8. Section 598.21E, subsection 1, paragraph a,
23 subparagraph (1), Code 2022, is amended to read as follows:

24 ~~(1) If the prior determination of paternity is based on~~
25 ~~an affidavit of paternity filed pursuant to [section 252A.3A](#),~~
26 ~~or a court or administrative order entered in this state~~ has
27 been legally established by one of the methods enumerated in
28 section 252A.3, subsection 10, or by operation of law when the
29 ~~mother and~~ due to the established father ~~are or were married~~
30 ~~to each other~~ father's marriage to the mother at the time of
31 conception, birth, or at any time during the period between
32 conception and birth of the child, the provisions of section
33 600B.41A apply.

34 Sec. 9. Section 598.21E, subsection 1, paragraph b, Code
35 2022, is amended to read as follows:

1 **b. If Notwithstanding paragraph "a", subparagraph (1), if**
2 a determination of paternity is based on an administrative or
3 court order or other means pursuant to the laws of another
4 state or foreign country as defined in **chapter 252K**, any action
5 to overcome the prior determination of paternity shall be filed
6 in that jurisdiction. Unless a stay of the action initiated in
7 this state to establish child or medical support is requested
8 and granted by the court, pending a resolution of the contested
9 paternity issue by the other state or foreign country as
10 defined in **chapter 252K**, the action shall proceed.

11 Sec. 10. Section 600B.41A, subsection 1, Code 2022, is
12 amended to read as follows:

13 1. Paternity which is legally established may be overcome
14 as provided in **this section** if subsequent blood or genetic
15 testing indicates that the previously established father of
16 a child is not the biological father of the child. Unless
17 otherwise provided in **this section**, **this section** applies to the
18 overcoming of paternity which has been established ~~according~~
19 ~~to any of the means provided by one of the methods enumerated~~
20 in **section 252A.3, subsection 10**, or by operation of law when
21 due to the established father and father's marriage to the
22 mother of the child are or were married to each other, or as
23 determined by a court of this state under any other applicable
24 chapter at the time of conception, birth, or at any time during
25 the period between conception and birth of the child.

26 Sec. 11. Section 600B.41A, Code 2022, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 3A. Establishment of paternity may be
29 overcome under this section by a juvenile court pursuant to
30 section 232.3A if all of the following conditions are met:

31 a. Paternity of a child is contested during an active
32 child in need of assistance proceeding and the child is under
33 the jurisdiction of the juvenile court at the time an order
34 overcoming paternity is entered.

35 b. A guardian ad litem is appointed for the child.

1 *c.* Notice of the action to overcome paternity is served on
2 any parent of the child in accordance with chapter 232 and if
3 enforcement services are being provided by the child support
4 recovery unit pursuant to chapter 252B, notice shall also be
5 served on the child support recovery unit.

6 *d.* Blood or genetic testing is conducted in accordance with
7 sections 232.3A and 600B.41.

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

12 (2) Unless otherwise specified in this section, section
13 600B.41 applies to blood or genetic testing conducted as the
14 result of an action brought to overcome paternity.

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

19 *e.* The juvenile court finds all of the following, as
20 applicable:

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

25 (2) If paternity was established pursuant to section
26 252A.3A, the signed affidavit was based on fraud, duress, or
27 material mistake of fact.

28 (3) The established father agrees that his paternity should
29 be overcome or the juvenile court finds it is in the best
30 interest of the child that the established father's paternity
31 be overcome despite the established father's objection.

32 Sec. 12. Section 600B.41A, subsection 4, unnumbered
33 paragraph 1, Code 2022, is amended to read as follows:

34 If the court finds that the establishment of paternity is
35 overcome, in accordance with all of the conditions prescribed

1 under subsection 3 or 3A, the court shall enter an order which
2 provides all of the following:

3 Sec. 13. Section 602.6306, subsection 2, Code 2022, is
4 amended to read as follows:

5 2. District associate judges also have jurisdiction
6 in civil actions for money judgment where the amount in
7 controversy does not exceed ten thousand dollars; jurisdiction
8 over involuntary commitment, treatment, or hospitalization
9 proceedings under [chapters 125](#) and [229](#); jurisdiction of
10 indictable misdemeanors, class "D" felony violations, and
11 other felony arraignments; jurisdiction to enter a temporary
12 or emergency order of protection under [chapter 235F](#) or [236](#),
13 and to make court appointments and set hearings in criminal
14 matters; jurisdiction to enter orders in probate which do not
15 require notice and hearing and to set hearings in actions under
16 chapter 633 or [633A](#); and the jurisdiction provided in section
17 [232.3A](#), [600.41A](#), or [602.7101](#) when designated as a judge of the
18 juvenile court. While presiding in these subject matters a
19 district associate judge shall employ district judges' practice
20 and procedure.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill relates to actions to overcome paternity during
25 a child in need of assistance proceeding or a termination
26 of parental rights proceeding, and the jurisdiction of the
27 juvenile court to initiate an action to overcome paternity.

28 The bill provides that for the purposes of Code chapter 232
29 (juvenile justice), "parent" does not include a father whose
30 paternity has been overcome.

31 The bill provides authority for the juvenile court during a
32 child in need of assistance (CINA) proceeding or termination of
33 parent-child relationship proceeding under Code chapter 232,
34 on its own motion or that of any party, to require the child
35 and established father to submit to blood or genetic testing,

1 to challenge the paternity of the child. The juvenile court
2 may enter an order overcoming paternity of an established
3 father if: the child has been adjudicated a CINA in an active
4 juvenile court case and a dispositional order in that case is
5 in place; paternity of the child has been legally established;
6 the conclusion of the expert as disclosed by the evidence based
7 upon blood or genetic testing demonstrates that the established
8 father is not the biological father of the child; and the
9 established father agrees that his paternity should be overcome
10 or the established father objects to having his paternity
11 overcome but the court finds that it is in the best interest
12 of the child to overcome his paternity. The bill provides
13 that when the criteria for overcoming paternity are met, the
14 juvenile court shall enter an order overcoming paternity, and
15 shall send a copy of the order to the clerk of the district
16 court. The juvenile court shall designate the petitioner and
17 respondent for the purposes of the order. Upon receipt of the
18 order by the district court, the clerk of the district court
19 shall docket the case. Filing fees and other court costs shall
20 not be assessed against the parties.

21 The district court shall take judicial notice of the
22 juvenile file in any hearing related to the case. Records
23 contained in the district court case file that were copied or
24 transferred from the juvenile court file concerning the case
25 are subject to the confidentiality provisions of Code chapter
26 232 for cases not involving juvenile delinquency, and shall be
27 disclosed, upon request, to the child support recovery unit
28 without a court order.

29 If paternity testing is completed and the established father
30 is not excluded as the biological father of the child, the
31 court shall find the established father to be the biological
32 father of the child and a necessary party to the action. The
33 provisions of the bill are not to be construed to require
34 appointment of counsel for the parties in the district court
35 action.

1 The bill also establishes the criteria under Code section
2 600B.41A (actions to overcome paternity — applicability —
3 conditions) specific to an action under the jurisdiction of
4 the juvenile court to overcome paternity in a child in need of
5 assistance proceeding.

6 The bill makes conforming changes throughout the Code
7 relating to legally establishing paternity and under Code
8 section 602.6306 (jurisdiction, procedure, appeals) relating to
9 the jurisdiction of district associate judges when designated
10 as a judge of the juvenile court, to include the overcoming of
11 paternity proceedings created in the bill.