

Senate File 397 - Introduced

SENATE FILE 397

BY EVANS

A BILL FOR

1 An Act relating to paternity and the obligation of parents for
2 support of children.

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

1 Section 1. Section 600B.4, Code 2023, is amended to read as
2 follows:

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

4 The obligation of the father as ~~hereby~~ provided in this
5 chapter creates also a cause of action on behalf of the legal
6 representative of the mother, or on behalf of third persons
7 furnishing support or defraying the reasonable expenses ~~thereof~~
8 of the mother, where paternity has been judicially established
9 by proceedings brought by the mother or by or on behalf of
10 the child or by the authorities charged with ~~its~~ the child's
11 support, or where paternity has been acknowledged by the father
12 in writing, established by the father through blood or genetic
13 testing conducted in accordance with section 600B.41 or chapter
14 252F, or by the part performance of the obligations imposed
15 upon ~~him~~ the father.

16 Sec. 2. Section 600B.6, Code 2023, is amended to read as
17 follows:

18 **600B.6 Liability of the father's estate.**

19 The obligation of the father, when ~~his~~ the father's
20 paternity has been judicially established in ~~his~~ the father's
21 lifetime, established by the father through blood or genetic
22 testing, or has been acknowledged by ~~him~~ the father in writing
23 or by the part performance of ~~his~~ the father's obligations, is
24 enforceable against ~~his~~ the father's estate in such an amount
25 as the court may determine, ~~having regard to~~ upon consideration
26 of the age of the child, the ability of the mother to support
27 ~~it~~ the child, the amount of property left by the father, the
28 number, age, and financial condition of the lawful issue, if
29 any, and the rights of the widow, if any. The court may direct
30 the discharge of the obligation by periodical payments or by
31 the payment of a lump sum.

32 Sec. 3. Section 600B.8, Code 2023, is amended to read as
33 follows:

34 **600B.8 Who may institute proceedings.**

35 The proceedings may be brought by the mother, or other

1 interested person, by the alleged father, or if the child is
2 or is likely to be a public charge, by the authorities charged
3 with ~~its~~ the child's support. After the death of the mother
4 or in case of ~~her~~ the mother's disability, ~~it~~ the proceedings
5 may also be brought by the child acting through ~~its~~ the child's
6 guardian or next friend.

7 Sec. 4. Section 600B.9, Code 2023, is amended to read as
8 follows:

9 **600B.9 Time of instituting proceedings.**

10 The proceedings may be instituted during the pregnancy of
11 the mother or after the birth of the child, but, except with
12 the consent of all parties, the trial shall not be held until
13 after the birth of the child and shall be held no earlier than
14 twenty days from the date the alleged father or the mother is
15 served with notice of the action or, if blood or genetic tests
16 are conducted, no earlier than thirty days from the date the
17 test results are filed with the clerk of the district court as
18 provided under [section 600B.41](#).

19 Sec. 5. Section 600B.11, Code 2023, is amended to read as
20 follows:

21 **600B.11 Nonresident complainant.**

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

25 Sec. 6. Section 600B.13, Code 2023, is amended to read as
26 follows:

27 **600B.13 Form of complaint — verification.**

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

32 Sec. 7. Section 600B.14, Code 2023, is amended to read as
33 follows:

34 **600B.14 Substance of complaint.**

35 1. The mother or child who is the complainant shall charge

1 the person named as defendant with being the father of the
2 child.

3 2. The alleged father who is the complainant shall allege
4 that he is the father of the child.

5 Sec. 8. Section 600B.16, Code 2023, is amended to read as
6 follows:

7 **600B.16 Lis pendens.**

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

13 Sec. 9. Section 600B.17, Code 2023, is amended to read as
14 follows:

15 **600B.17 Writ of attachment.**

16 The district court may order an attachment to issue ~~thereon~~
17 on the real property upon which a lien is created without
18 ~~bond, which order.~~ The order shall specify the amount of real
19 property to be seized ~~thereunder~~, and may be revoked at any
20 time by ~~such the~~ the court on a showing made for a revocation of the
21 ~~same order~~, and on such terms as ~~such the~~ the court ~~may deem~~ deems
22 proper ~~in the premises~~.

23 Sec. 10. Section 600B.21, Code 2023, is amended to read as
24 follows:

25 **600B.21 Death, absence, or mental illness of mother or**
26 **alleged father — testimony receivable.**

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

34 Sec. 11. Section 600B.22, Code 2023, is amended to read as
35 follows:

1 **600B.22 Death of defendant.**

2 In case of the death of the defendant the action may be
3 prosecuted against the personal representative of the deceased
4 ~~with like effects~~ as if the defendant were living, subject as
5 ~~regards the measure~~ with regard to the amount of support to the
6 provision of [section 600B.6](#).

7 Sec. 12. Section 600B.24, Code 2023, is amended to read as
8 follows:

9 **600B.24 Judgment in general.**

10 1. If the ~~defendant~~ alleged father, after being served
11 with notice as required under [section 600B.15](#), fails to timely
12 respond to the notice, or to appear for blood or genetic tests
13 pursuant to a court or administrative order, or to appear at a
14 scheduled hearing after being provided notice of the hearing,
15 the court shall find the ~~defendant~~ alleged father in default
16 and enter a default judgment.

17 2. Upon a finding of paternity against or for the ~~defendant~~
18 alleged father, the court shall enter a judgment ~~against~~
19 ~~the defendant~~ declaring paternity of the alleged father and
20 ordering support of the child.

21 Sec. 13. Section 600B.29, Code 2023, is amended to read as
22 follows:

23 **600B.29 Desertion statute applicable.**

24 The provisions of [sections 726.3 through 726.5](#) relating to
25 desertion and abandonment of children, have the same effect
26 in cases of illegitimacy where paternity has been judicially
27 established, has been established by the father through blood
28 or genetic testing, or has been acknowledged by the father
29 in writing or by the furnishing of support, as in cases of
30 children born in wedlock.

31 Sec. 14. Section 600B.36, Code 2023, is amended to read as
32 follows:

33 **600B.36 Report to registrar of vital statistics.**

34 Upon the entry of a judgment determining the paternity of a
35 child the clerk of the district court shall notify in writing

1 the state registrar of vital statistics of the name of the
2 ~~person against whom such judgment has been entered~~ father,
3 ~~together~~ with such other facts disclosed by the records as may
4 assist in identifying the record of the birth of the child as
5 ~~the same may appear~~ in the office of ~~said~~ the state registrar.
6 If ~~such~~ the judgment shall ~~is~~ thereafter be vacated, ~~that fact~~
7 the vacating of the order shall be reported by the clerk in the
8 same manner.

9 Sec. 15. Section 600B.41, subsection 1, Code 2023, is
10 amended to read as follows:

11 1. In a proceeding to establish paternity in law or in
12 equity the court may on its own motion, and upon request of a
13 party, including a mother or an alleged father shall, require
14 the child, mother, and alleged father to submit to blood or
15 genetic tests, except that if the mother and child previously
16 submitted blood or genetic specimens in a prior action to
17 establish paternity against a different alleged father, the
18 previously submitted specimens and prior results, if available,
19 may be utilized for testing in this action. A mother or
20 alleged father requesting the tests shall file with the court
21 an affidavit either alleging or denying paternity and setting
22 forth facts that establish the reasonable possibility that
23 there was, or was not, the requisite sexual contact between the
24 parties.

25 EXPLANATION

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

28 This bill amends Code chapter 600B (paternity and obligation
29 for support) to allow for both a mother or a child and an
30 alleged father of a child to file a complaint to establish
31 paternity of a child and an obligation for support of the
32 child. Under current law, the proceedings under Code chapter
33 600B may be brought only by the mother, or other interested
34 person, or if the child is or is likely to be a public charge,
35 by the authorities charged with the child's support. The

1 bill provides that an alleged father may also initiate the
2 proceedings, and makes conforming changes throughout the Code
3 chapter to provide that the alleged father may also be the
4 complainant or plaintiff.

5 The bill also specifically includes an alleged father as a
6 party that may request blood or genetic testing in a proceeding
7 to establish paternity, and provides that a mother or alleged
8 father requesting the testing shall file with the court an
9 affidavit either alleging or denying paternity and setting
10 forth facts that establish the reasonable possibility that
11 there was, or was not, the requisite sexual contact between the
12 parties.