

Senate Study Bill 1003 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

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 44, Code 2023, is
2 amended to read as follows:

3 44. "*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.

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

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

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

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

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

1 the birth of the child.

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

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

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

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

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

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

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

1 Sec. 3. Section 232.103A, subsection 1, paragraph b, Code
2 2023, is amended to read as follows:

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

11 Sec. 4. Section 252A.6A, subsection 2, paragraph a,
12 subparagraph (1), Code 2023, is amended to read as follows:

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

23 Sec. 5. Section 252A.6A, subsection 2, paragraph b, Code
24 2023, is amended to read as follows:

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

33 Sec. 6. Section 252C.4, subsection 7, paragraph a,
34 subparagraph (1), Code 2023, is amended to read as follows:

35 (1) ~~If the prior determination of paternity is based on an~~

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

10 Sec. 7. Section 252C.4, subsection 7, paragraph b, Code
11 2023, is amended to read as follows:

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

21 Sec. 8. Section 598.21E, subsection 1, paragraph a,
22 subparagraph (1), Code 2023, is amended to read as follows:

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

33 Sec. 9. Section 598.21E, subsection 1, paragraph b, Code
34 2023, is amended to read as follows:

35 b. If Notwithstanding paragraph "a", subparagraph (1), if

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

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

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

25 Sec. 11. Section 600B.41A, Code 2023, is amended by adding
26 the following new subsection:

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

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

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

35 c. Notice of the action to overcome paternity is served on

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

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

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

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

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

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

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

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

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

31 Sec. 12. Section 600B.41A, subsection 4, unnumbered
32 paragraph 1, Code 2023, is amended to read as follows:

33 If the court finds that the establishment of paternity is
34 overcome, in accordance with all of the conditions prescribed
35 under subsection 3 or 3A, the court shall enter an order which

1 provides all of the following:

2 Sec. 13. Section 602.6306, subsection 2, Code 2023, is
3 amended to read as follows:

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

20 EXPLANATION

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

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

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

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

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

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

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

35 The bill also establishes the criteria under Code section

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

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