

**SENATE**  
**STATE OF MINNESOTA**  
**NINETIETH SESSION**

**S.F. No. 3574**

(SENATE AUTHORS: ABELER and Hoffman)

DATE  
03/19/2018

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OFFICIAL STATUS  
Introduction and first reading  
Referred to Judiciary and Public Safety Finance and Policy

- 1.1 A bill for an act
- 1.2 relating to paternity; amending the statute of limitations for paternity and
- 1.3 nonpaternity actions; amending Minnesota Statutes 2016, sections 257.57,
- 1.4 subdivisions 1, 2, by adding a subdivision; 257.75, subdivision 4.
- 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.6 Section 1. Minnesota Statutes 2016, section 257.57, subdivision 1, is amended to read:
- 1.7 Subdivision 1. **Actions under section 257.55, subdivision 1, paragraph (a), (b), or**
- 1.8 **(c).** A child, the child's biological mother, or a man presumed to be the child's father under
- 1.9 section 257.55, subdivision 1, paragraph (a), (b), or (c) may bring an action:
- 1.10 (1) at any time for the purpose of declaring the existence of the father and child
- 1.11 relationship presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c); or
- 1.12 (2) for the purpose of declaring the nonexistence of the father and child relationship
- 1.13 presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c), only if the action
- 1.14 is brought within ~~two~~ three years after the person bringing the action has reason to believe
- 1.15 that the presumed father is not the father of the child, ~~but in no event later than three years~~
- 1.16 ~~after the child's birth. However, if the presumed father was divorced from the child's mother~~
- 1.17 ~~and if, on or before the 280th day after the judgment and decree of divorce or dissolution~~
- 1.18 ~~became final, he did not know that the child was born during the marriage or within 280~~
- 1.19 ~~days after the marriage was terminated, the action is not barred until one year after the child~~
- 1.20 ~~reaches the age of majority or one year after the presumed father knows or reasonably should~~
- 1.21 ~~have known of the birth of the child, whichever is earlier. After the presumption has been~~
- 1.22 ~~rebutted, paternity of the child by another man may be determined in the same action, if he~~
- 1.23 ~~has been made a party.~~

Sec. 2. Minnesota Statutes 2016, section 257.57, subdivision 2, is amended to read:

Subd. 2. **Actions under other paragraphs of section 257.55, subdivision 1.** The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under sections 257.55, subdivision 1, paragraph (d), (e), (g), or (h), and 257.62, subdivision 5, paragraph (b), or the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d);

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within ~~six months~~ three years after the person bringing the action obtains the results of blood or genetic tests that indicate that the presumed father is not the father of the child;

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.62, subdivision 5, paragraph (b), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood or genetic test results; or

(4) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.75, subdivision 9, only if the action is brought by the minor signatory within six months after the minor signatory reaches the age of 18. In the case of a recognition of parentage executed by two minor signatories, the action to declare the nonexistence of the father and child relationship must be brought within six months after the youngest signatory reaches the age of 18.

Sec. 3. Minnesota Statutes 2016, section 257.57, is amended by adding a subdivision to read:

Subd. 2a. **Actions brought against potential father.** The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a presumed or adjudicated father, or a parent of a presumed or adjudicated father if the father has died or is a minor, may bring an action at any time before the child reaches the age of majority for the purpose of declaring the existence of the father and child

relationship or the nonexistence of the father and child relationship when there is genetic testing that proves that the presumed or adjudicated father is not the biological father. The court may declare the nonexistence of the father and child relationship under this subdivision only when another man has been identified as the biological father, made a party to the action, and is proven to be the father of the child based on genetic testing under section 257.62. The court may require the party bringing the action, or another party to the case, to pay another party's court costs, attorney fees, or the cost of the genetic testing.

Sec. 4. Minnesota Statutes 2016, section 257.75, subdivision 4, is amended to read:

Subd. 4. **Action to vacate recognition.** (a) An action to vacate a recognition of paternity may be brought by the mother, father, husband or former husband who executed a joinder, or the child. An action to vacate a recognition of parentage may be brought by the public authority. A mother, father, or husband or former husband who executed a joinder must bring the action within one year of the execution of the recognition or within ~~six months~~ three years after the person bringing the action obtains the results of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child. A child must bring an action to vacate within six months after the child obtains the result of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child, or within one year of reaching the age of majority, whichever is later. If the court finds a prima facie basis for vacating the recognition, the court shall order the child, mother, father, and husband or former husband who executed a joinder to submit to blood tests. If the court issues an order for the taking of blood tests, the court shall require the party seeking to vacate the recognition to make advance payment for the costs of the blood tests. If the party fails to pay for the costs of the blood tests, the court shall dismiss the action to vacate with prejudice. The court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney fees, costs, and disbursements. If the results of the blood tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition. If a recognition is vacated, any joinder in the recognition under subdivision 1a is also vacated. The court shall terminate the obligation of a party to pay ongoing child support based on the recognition. A modification of child support based on a recognition may be made retroactive with respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.

(b) The burden of proof in an action to vacate the recognition is on the moving party. The moving party must request the vacation on the basis of fraud, duress, or material mistake of fact. The legal responsibilities in existence at the time of an action to vacate, including

- 4.1 child support obligations, may not be suspended during the proceeding, except for good
- 4.2 cause shown.