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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1719

02/27/2017 Authored by Whelan and Lesch

The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy

03/14/2018 Adoption of Report: Amended and re-referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to paternity; modifying the statute of limitations for nonpaternity actions;
1.3 providing procedures for actions to declare nonpaternity; amending Minnesota
1.4 Statutes 2016, sections 257.57, subdivisions 1, 2, by adding a subdivision; 257.75,
1.5 subdivision 4; 518.145, subdivision 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 257.57, subdivision 1, is amended to read:

1.8 Subdivision 1. **Actions under section 257.55, subdivision 1, paragraph (a), (b), or**
1.9 **(c).** A child, the child's biological mother, or a man presumed to be the child's father under
1.10 section 257.55, subdivision 1, paragraph (a), (b), or (c) may bring an action:

1.11 (1) at any time for the purpose of declaring the existence of the father and child
1.12 relationship presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c); or

1.13 (2) for the purpose of declaring the nonexistence of the father and child relationship
1.14 presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c), only if the action
1.15 is brought within ~~two~~ three years after the person bringing the action has reason to believe
1.16 that the presumed father is not the father of the child, ~~but in no event later than three years~~
1.17 ~~after the child's birth.~~ However, if the presumed father was divorced from the child's mother
1.18 and if, on or before the 280th day after the judgment and decree of divorce or dissolution
1.19 became final, he did not know that the child was born during the marriage or within 280
1.20 days after the marriage was terminated, the action is not barred until ~~one year after the child~~
1.21 ~~reaches the age of majority or one year~~ three years after the presumed father knows or
1.22 reasonably should have known of the birth of the child, ~~whichever is earlier.~~ After the
1.23 presumption has been rebutted, paternity of the child by another man may be determined
1.24 in the same action, if he has been made a party.

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

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

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

2.12 (2) for the purpose of declaring the nonexistence of the father and child relationship
2.13 presumed under section 257.55, subdivision 1, paragraph (d), only if the action is brought
2.14 within three years from when the presumed father began holding the child out as his own;

2.15 (3) for the purpose of declaring the nonexistence of the father and child relationship
2.16 presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is
2.17 brought within six months three years after the person bringing the action obtains the results
2.18 of blood or genetic tests that indicate that the presumed father is not the father of the child
2.19 has reason to believe that the presumed father is not the biological father;

2.20 (3) (4) for the purpose of declaring the nonexistence of the father and child relationship
2.21 presumed under section 257.62, subdivision 5, paragraph (b), only if the action is brought
2.22 within three years after the party bringing the action, or the party's attorney of record, has
2.23 been provided the blood or genetic test results; or

2.24 (4) (5) for the purpose of declaring the nonexistence of the father and child relationship
2.25 presumed under section 257.75, subdivision 9, only if the action is brought by the minor
2.26 signatory within six months three years after the youngest minor signatory reaches the age
2.27 of 18 or three years after the person bringing the action has reason to believe that the father
2.28 is not the biological father of the child, whichever is later. In the case of a recognition of
2.29 parentage executed by two minor signatories, the action to declare the nonexistence of the
2.30 father and child relationship must be brought within six months after the youngest signatory
2.31 reaches the age of 18.

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

3.3 Subd. 7. **Nonexistence of father-child relationship.** (a) An action to declare the
3.4 nonexistence of the father-child relationship must be personally served on all parties and
3.5 meet the requirements of either subdivision 1 or 2. An action must be brought by a petition,
3.6 except that a motion may be filed in an underlying action regarding parentage, custody, or
3.7 parenting time.

3.8 (b) An action to declare the nonexistence of the father-child relationship cannot proceed
3.9 if the court finds that in a previous proceeding:

3.10 (1) the father-child relationship was contested and a court order determined the existence
3.11 of the father-child relationship; or

3.12 (2) the father-child relationship was determined based upon a court order as a result of
3.13 a stipulation or joint petition of the parties.

3.14 (c) Nothing in this subdivision precludes a party from relief under section 518.145,
3.15 subdivision 2, clauses (1) to (3), if applicable, or the Minnesota Rules of Civil Procedure.

3.16 (d) In evaluating whether or not to declare the nonexistence of the father-child
3.17 relationship, the court must consider, evaluate, and make written findings on the following
3.18 factors:

3.19 (1) the length of time between the paternity adjudication or presumption of paternity
3.20 and the time that the moving party knew or should have known that the presumed or
3.21 adjudicated father might not be the biological father;

3.22 (2) the length of time during which the presumed or adjudicated father has assumed the
3.23 role of father of the child;

3.24 (3) the facts surrounding the moving party's discovery of the presumed or adjudicated
3.25 father's possible nonpaternity;

3.26 (4) the nature of the relationship between the child and the presumed or adjudicated
3.27 father;

3.28 (5) the current age of the child;

3.29 (6) the harm or benefit that may result to the child if the court ends the father-child
3.30 relationship of the current presumed or adjudicated father;

3.31 (7) the nature of the relationship between the child and any presumed or adjudicated
3.32 father;

4.1 (8) the parties' agreement to the nonexistence of the father-child relationship and
4.2 adjudication of paternity in the same action;

4.3 (9) the extent to which the passage of time reduces the chances of establishing paternity
4.4 of another man and a child support order for that parent;

4.5 (10) the likelihood of adjudication of the biological father if not already joined in this
4.6 action; and

4.7 (11) any additional factors deemed to be relevant by the court.

4.8 (e) The burden of proof shall be on the petitioner to show by clear and convincing
4.9 evidence that, after consideration of the factors in paragraph (d), declaring the nonexistence
4.10 of the father-child relationship is in the child's best interests.

4.11 (f) The court may grant the relief in the petition or motion upon finding that:

4.12 (1) the moving party has met the requirements of this section;

4.13 (2) the genetic testing results were properly conducted in accordance with section 257.62;

4.14 (3) the presumed or adjudicated father has not adopted the child;

4.15 (4) the child was not conceived by artificial insemination that meets the requirements
4.16 under section 257.56 or that the presumed or adjudicated father voluntarily agreed to the
4.17 artificial insemination; and

4.18 (5) the presumed or adjudicated father did not act to prevent the biological father of the
4.19 child from asserting his parental rights with respect to the child.

4.20 (g) Upon granting the relief sought in the petition or motion, the court shall order the
4.21 following:

4.22 (1) the father-child relationship has ended and the presumed or adjudicated father's
4.23 parental rights and responsibilities end upon the granting of the petition;

4.24 (2) the presumed or adjudicated father's name shall be removed from the minor child's
4.25 birth record and a new birth certificate shall be issued upon the payment of any fees;

4.26 (3) the presumed or adjudicated father's obligation to pay ongoing child support shall
4.27 be terminated, effective on the first of the month after the petition or motion was served;

4.28 (4) any unpaid child support due prior to service of the petition or motion remains due
4.29 and owing absent an agreement of all parties including the public authority or the court
4.30 determines other relief is appropriate under the Rules of Civil Procedure; and

5.1 (5) the presumed or adjudicated father has no right to reimbursement of past child support
5.2 paid to the mother, the public authority, or any other assignee of child support.

5.3 The order must include the provisions of section 257.66 if another party to the action is
5.4 adjudicated as the father of the child.

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

5.6 Subd. 4. **Action to vacate recognition.** (a) An action to vacate a recognition of paternity
5.7 may be brought by the mother, father, husband or former husband who executed a joinder,
5.8 or the child. An action to vacate a recognition of parentage may be brought by the public
5.9 authority. A mother, father, or husband or former husband who executed a joinder must
5.10 bring the action within ~~one year of the execution of the recognition or within six months~~
5.11 ~~after the person bringing the action obtains the results of blood or genetic tests that indicate~~
5.12 ~~that the man who executed the recognition is not the father of the child~~ three years after the
5.13 person bringing the action has reason to believe that the father is not the biological father
5.14 of the child. A child must bring an action to vacate within ~~six months~~ three years after the
5.15 ~~child obtains the result of blood or genetic tests that indicate that~~ has reason to believe the
5.16 ~~man who executed the recognition is not the~~ biological father of the child, or within one
5.17 year of reaching the age of majority, whichever is later. If the court finds a prima facie basis
5.18 for vacating the recognition, the court shall order the child, mother, father, and husband or
5.19 former husband who executed a joinder to submit to ~~blood~~ genetic tests. If the court issues
5.20 an order for the taking of ~~blood~~ genetic tests, the court shall require the party seeking to
5.21 vacate the recognition to make advance payment for the costs of the ~~blood~~ genetic tests,
5.22 unless the parties agree and the court finds that the previous genetic test results exclude the
5.23 man who executed the recognition as the biological father of the child. If the party fails to
5.24 pay for the costs of the ~~blood~~ genetic tests, the court shall dismiss the action to vacate with
5.25 prejudice. The court may also order the party seeking to vacate the recognition to pay the
5.26 other party's reasonable attorney fees, costs, and disbursements. If the results of the ~~blood~~
5.27 genetic tests establish that the man who executed the recognition is not the father, the court
5.28 shall vacate the recognition. Notwithstanding the vacation of the recognition, the court may
5.29 adjudicate the man who executed the recognition under any other applicable paternity
5.30 presumption under section 257.55. If a recognition is vacated, any joinder in the recognition
5.31 under subdivision 1a is also vacated. The court shall terminate the obligation of a party to
5.32 pay ongoing child support based on the recognition. A modification of child support based
5.33 on a recognition may be made retroactive with respect to any period during which the
5.34 moving party has pending a motion to vacate the recognition but only from the date of
5.35 service of notice of the motion on the responding party.

6.1 (b) The burden of proof in an action to vacate the recognition is on the moving party.
6.2 The moving party must request the vacation on the basis of fraud, duress, or material mistake
6.3 of fact. The legal responsibilities in existence at the time of an action to vacate, including
6.4 child support obligations, may not be suspended during the proceeding, except for good
6.5 cause shown.

6.6 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to recognition
6.7 of parentage signed on or after that date.

6.8 Sec. 5. Minnesota Statutes 2016, section 518.145, subdivision 2, is amended to read:

6.9 Subd. 2. **Reopening.** On motion and upon terms as are just, the court may relieve a party
6.10 from a judgment and decree, order, or proceeding under this chapter, except for provisions
6.11 dissolving the bonds of marriage, annulling the marriage, or directing that the parties are
6.12 legally separated, and may order a new trial or grant other relief as may be just for the
6.13 following reasons:

6.14 (1) mistake, inadvertence, surprise, or excusable neglect;

6.15 (2) newly discovered evidence which by due diligence could not have been discovered
6.16 in time to move for a new trial under the Rules of Civil Procedure, rule 59.03;

6.17 (3) fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other
6.18 misconduct of an adverse party;

6.19 (4) the judgment and decree or order is void; or

6.20 (5) the judgment has been satisfied, released, or discharged, or a prior judgment and
6.21 decree or order upon which it is based has been reversed or otherwise vacated, or it is no
6.22 longer equitable that the judgment and decree or order should have prospective application.

6.23 The motion must be made within a reasonable time, and for a reason under clause (1),
6.24 (2), or (3), other than a motion to declare the nonexistence of the parent-child relationship,
6.25 not more than one year after the judgment and decree, order, or proceeding was entered or
6.26 taken. An action to declare the nonexistence of the father-child relationship must be made
6.27 within in a reasonable time under clause (1), (2), or (3), and not more than three years after
6.28 the person bringing the action has reason to believe that the father is not the father of the
6.29 child. A motion under this subdivision does not affect the finality of a judgment and decree
6.30 or order or suspend its operation. This subdivision does not limit the power of a court to
6.31 entertain an independent action to relieve a party from a judgment and decree, order, or
6.32 proceeding or to grant relief to a party not actually personally notified as provided in the
6.33 Rules of Civil Procedure, or to set aside a judgment for fraud upon the court.