

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2034
(Legislative Council)
(Family Law Committee)

AN ACT to amend and reenact sections 14-17-01 and 14-17-03, subsection 1 of section 14-17-04, subsection 1 of section 14-17-05, and sections 14-17-08 and 14-17-24 of the North Dakota Century Code, relating to the Uniform Parentage Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-17-01 of the North Dakota Century Code is amended and reenacted as follows:

14-17-01. Parent and child relationship defined. As used in this chapter, "parent and child relationship" means the legal relationship existing between a child and the child's ~~natural~~ biological or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

SECTION 2. AMENDMENT. Section 14-17-03 of the North Dakota Century Code is amended and reenacted as follows:

14-17-03. How parent and child relationship established. The parent and child relationship between a child and:

1. The ~~natural~~ biological mother may be established by proof of having given birth to the child, or under this chapter.
2. The ~~natural~~ biological father may be established under this chapter.
3. An adoptive parent may be established by proof of adoption under ~~the Revised Uniform Adoption Act~~ chapter 14-15.

SECTION 3. AMENDMENT. Subsection 1 of section 14-17-04 of the North Dakota Century Code is amended and reenacted as follows:

1. A man is presumed to be the ~~natural~~ biological father of a child if:
 - a. The man and the child's ~~natural~~ biological mother are or have been married to each other and the child is born during the marriage; or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;
 - b. Before the child's birth, that man and the child's ~~natural~~ biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage; or within three hundred days after its termination by death, annulment, declaration of invalidity, or divorce; or
 - (2) If the attempted marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;

- c. After the child's birth, that man and the child's ~~natural~~ biological mother have married; or attempted to marry; each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (1) The man has acknowledged the man's paternity of the child in writing filed with the division of vital statistics of the state department of health;
 - (2) With the man's consent, that man is named as the child's father on the child's birth certificate; or
 - (3) The man is obligated to support the child under a written voluntary promise or by court order;
- d. While the child is under the age of majority, the man receives the child into the man's home and openly holds out the child as the man's ~~natural~~ biological child;
- e. The man acknowledges the man's paternity of the child in a writing filed with the division of vital statistics of the state department of health, which shall promptly inform the mother of the filing of the acknowledgment, and the mother does not dispute the acknowledgment within a reasonable time after being informed ~~thereof~~ of the acknowledgment, in a writing filed with the division of vital statistics of the state department of health. If another man is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted; or
- f. If genetic tests show that the man is not excluded and the statistical probability of the man's parentage is ninety-five percent or higher.

SECTION 4. AMENDMENT. Subsection 1 of section 14-17-05 of the North Dakota Century Code is amended and reenacted as follows:

- 1. A child, the child's ~~natural~~ biological mother, or a man presumed to be the child's father under subdivision a, b, or c of subsection 1 of section 14-17-04, may bring an action:
 - a. At any time for the purpose of declaring the existence of the father and child relationship presumed under subdivision a, b, or c of subsection 1 of section 14-17-04; or
 - b. For the purpose of declaring the nonexistence of the father and child relationship presumed under subdivision a, b, or c of subsection 1 of section 14-17-04 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts, but in no event later than five years after the child's birth. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if that man has been made a party.

SECTION 5. AMENDMENT. Section 14-17-08 of the North Dakota Century Code is amended and reenacted as follows:

14-17-08. Parties. The child must be made a party to the action. A child who is a minor must be represented by the child's parent whose parentage has been established under section 14-17-03 or a guardian ad litem appointed by the court. The court may appoint the director of the county social service board as guardian ad litem for the child. The ~~natural~~ biological mother, each man presumed to be the father under section 14-17-04, and each man alleged to be the ~~natural~~ biological father, must be made parties or, if not subject to the jurisdiction of the court, must be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

SECTION 6. AMENDMENT. Section 14-17-24 of the North Dakota Century Code is amended and reenacted as follows:

14-17-24. Proceeding to terminate parental rights.

1. If a mother relinquishes or proposes to relinquish for adoption a child who does not have (a) a presumed father under subsection 1 of section 14-17-04, (b) a father whose relationship to the child has been determined by the court, or (c) a father as to whom the child is a legitimate child under ~~prior~~ previous law of this state or under the law of another jurisdiction, or if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the district court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined by a court not to exist.
2. In an effort to identify the ~~natural~~ biological father, the court shall cause inquiry to be made of the mother and any other appropriate person. The inquiry must include the following: whether the mother was married at the time of conception of the child or at any time ~~thereafter~~ after conception; whether the mother was cohabiting with a man at the time of conception or birth of the child; whether the mother has received from any man support payments or promises of support with respect to the child or in connection with her pregnancy; or whether any man has formally or informally acknowledged or declared that man's possible paternity of the child.
3. If, after the inquiry, the ~~natural~~ biological father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each must be given notice of the proceeding in accordance with subsection 5. If any of them fails to appear or, if appearing, fails to claim custodial rights, that man's parental rights with reference to the child must be terminated. If the ~~natural~~ biological father, or a man representing himself to be the ~~natural~~ biological father, claims custodial rights, the court shall proceed to determine custodial rights.
4. If, after the inquiry, the court is unable to identify the ~~natural~~ biological father or any possible ~~natural~~ biological father and no person has appeared claiming to be the ~~natural~~ biological father and claiming custodial rights, the court shall enter an order terminating the unknown ~~natural~~ biological father's parental rights with reference to the child. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this subsection, the order cannot be questioned by any person, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter.
5. Notice of the proceedings must be given to every person identified as the ~~natural~~ biological father or a possible ~~natural~~ biological father in the manner appropriate under the rules of civil procedure for the service of process in a civil action in this state or in any manner the court directs. Proof of giving the notice must be filed with the court before the petition is heard. If no person has been identified as the ~~natural~~ biological father or a possible father, the court, on the basis of all information available, shall determine whether publication or public posting of notice of the proceeding is likely to lead to identification and, if so, shall order publication or public posting at times and in places and manner ~~it~~ the court deems appropriate.
6. A termination of parental rights ordered under this section does not terminate the duty of either parent to support the child ~~prior to~~ before the child's adoption unless that duty is specifically terminated by order of the court after notice of a proposed termination or relinquishment is given to the department of human services in the manner appropriate for the service of process in a civil action in this state.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2034.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State