

Testimony in Opposition to House Bill No. 1134

House Judiciary Committee Hearing January 19, 2021 at 2 p.m.

Mr. Chairman, members of the House Judiciary Committee:

I am Gail Hagerty. I'm a former district court judge and a current uniform law commissioner.

I was a member of the Uniform Law Commission committee which drafted the Uniform Parentage Act which was enacted in North Dakota. The provision which is impacted by this bill is one that deals with challenge of an acknowledgement of paternity.

The signatories to an acknowledgment of paternity include both the mother and the father. Both signatories are given an opportunity to challenge the acknowledgement under current law.

In allowing for challenges, there are two major parties whose interests are impacted. One is a person who signed an acknowledgement of paternity. Either of the people who signed the document may challenge – the mother or the person who acknowledges paternity. Of course there are difficult situations in which a person might sign an acknowledgement and later question paternity. Under the current law, that person has an opportunity to challenge paternity during a two-year window of time.

The other party whose interest must be considered is the child for whom paternity was established. From my many years of handling cases involving parenting, I know that children are greatly impacted by uncertainty and by being turned away or taken away from a person who has acted as a parent over a period of years.

In weighing these competing interests, the uniform act provides for a challenge within a two-year period, but does not allow for the possibility of the breaking of a parent-child relationship after that period of time. After two years, the child's interest outweighs the interest of a person who had acknowledged paternity.

If the provision is changed, I predict that paternity will become an issue in a large number of cases involving parenting and child support. Whether or not the acknowledgement of paternity is set aside, the child will be the most hurt by the proceeding.

Because this bill would allow for a challenge based on fraud or material mistake of fact beyond a two-year period, I urge a "do-not" pass recommendation on House Bill No. 1134.