

Richter

House Bill 1134
Testimony of David Richter
Senate Judiciary Committee
March 17, 2021

Madam Chair and members of the Senate Judiciary Committee. My name is David Richter, Representative District , Williston. HB 1134 relates to the Uniform Parentage Act adopted in North Dakota in 2005 and amends 14-20-18 of NDCC challenging acknowledgment of paternity.

Section 301-303 of the Uniform Parentage Act outlines the process for a man to acknowledge genetic parentage of a child. A man can rescind the acknowledgment or denial of paternity "before 60 days of the acceptance or denial or before the first hearing to adjudicate an issue relating to the child including a proceeding that establishes support". Section 308 of the Uniform Parentage Act which is 14-20-18 of NDCC speaks to the time period a man may challenge paternity after the period of recession has past. In North Dakota a man has two years to challenge. There are three conditions that a man can challenge under fraud, duress, or material mistake of fact. This bill in its original form removed the time limit for fraud and material mistake of fact. The amended version only affects fraud by matching it to the 6 year statute of limitations for fraud in NDCC subsection 6 of section 28-01-16.

If a man proves he is not the biological father through a DNA test, under current ND law if it is past the two year limit, in the eyes of the court, he is still considered the father with the responsibilities including child support. A man with no biological relationship and no parent-like relationship with the child is still responsible for payment of child support even though all adult parties know he is not the biological father. If the man has a family and children that live with him, income that would be going to support his family is instead going towards supporting a child which is not his and may be causing a financial hardship on the children that live with him. This bill changes the two year limit on fraud to six years.

If a man proves he is the biological father through DNA test, under current law if it is past the two year limit, he can be denied paternity and the rights that go with it, even though the proof is that he is the biological father.

Burden of proof of fraud falls on the man and proof of non-paternity also falls on the man.

I will stand for any questions.