

## REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Judiciary** recommends **HB 2651** be amended on page 3, by striking all in lines 6 through 34; following line 34, by inserting:

"Sec. 2. K.S.A. 23-2209 is hereby amended to read as follows: 23-2209. (a) A child or any person on behalf of such a child, may bring an action:

(1) At any time to determine the existence of a father and child relationship presumed under K.S.A. 23-2208, and amendments thereto; or

(2) at any time until three years after the child reaches the age of majority to determine the existence of a father and child relationship which is not presumed under K.S.A. 23-2208, and amendments thereto.

(b) When authorized under K.S.A. 39-755 or 39-756, and amendments thereto, the secretary for children and families may bring an action at any time during a child's minority to determine the existence of the father and child relationship.

(c) This section does not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to the probate of estates or determination of heirship.

(d) Any agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

~~(e) Except as otherwise provided in this subsection, if an acknowledgment of paternity pursuant to K.S.A. 23-2204, and amendments thereto, has been completed the man named as the father, the mother or the child may bring an action to revoke the acknowledgment of paternity at~~

any time until one year after the child's date of birth(1) Except as provided in paragraph (2), a signed and witnessed voluntary acknowledgment of paternity pursuant to K.S.A. 23-2204, and amendments thereto, shall be considered a legal finding of paternity subject to the right of any signatory to revoke the acknowledgment within the earlier of the following:

(A) 60 days after completion of such acknowledgment; or

(B) prior to the date of any administrative or judicial proceeding relating to the child in which the signatory is a party, including, but not limited to, a proceeding to establish a support order.

(2) A person who was under 18 years of age when such person signed an acknowledgment of paternity may challenge such acknowledgment until such person turns 19 years of age. If the child is more than one year of age at the time of such challenge, the court shall first consider the child's best interests before revoking such acknowledgment of paternity.

(3) (A) After the deadline to revoke an acknowledgment of paternity pursuant to paragraph (1) or (2), such acknowledgment may be challenged only on the basis of fraud, duress or material mistake of fact. For the purposes of this subsection, genetic test results with a verifiable chain of custody that exclude a signatory father or that rebuttably identify another man as the father in accordance with K.S.A. 23-2208, and amendments thereto, shall constitute a change of circumstances that warrants a material mistake of fact finding by the court.

(B) Notwithstanding any other provision of law, a person seeking to revoke an acknowledgment of paternity on the basis of fraud, duress or material mistake of fact may file such request in an appropriate district court after the fraud, duress or material mistake of fact becomes known to such person and shall file such request as soon as practicable after such fraud, duress or material mistake of fact becomes known. Such person shall have the burden of proving the fraud, duress or material mistake of fact and the court shall first consider the child's best

interests before revoking an acknowledgment of paternity.

~~(4) The legal responsibilities, including any child support obligation, of any signatory arising from the acknowledgment of paternity shall not be suspended during the action, except for good cause shown. If the person bringing the action was a minor at the time the acknowledgment of paternity was completed, the action to revoke the acknowledgment of paternity may be brought at any time until one year after that person attains age 18, unless the court finds that the child is more than one year of age and that revocation of the acknowledgment of paternity is not in the child's best interest.~~

~~The person requesting revocation must show, and shall have the burden of proving, that the acknowledgment of paternity was based upon fraud, duress or material mistake of fact unless the action to revoke the acknowledgment of paternity is filed before the earlier of 60 days after completion of the acknowledgment of paternity or the date of a proceeding relating to the child in which the signatory is a party, including, but not limited to, a proceeding to establish a support order.~~

(5) If a court of this state has assumed jurisdiction over the matter of the child's paternity or the duty of a man to support the child, that court shall have exclusive jurisdiction to determine whether an acknowledgment of paternity may be revoked under this subsection.

(6) If an acknowledgment of paternity ~~has been revoked under~~ is revoked pursuant to this subsection, ~~it such revocation~~ shall not give rise to a presumption of paternity pursuant to K.S.A. 23-2208, and amendments thereto. Nothing in this subsection shall prevent a court from admitting a revoked acknowledgment of paternity into evidence for any other purpose.

(7) If there has been an assignment of the child's support rights pursuant to K.S.A. 39-709, and amendments thereto, the secretary for children and families shall be a necessary party to any action under this subsection.

(8) If a court orders revocation of an acknowledgment of paternity pursuant to this subsection and the party seeking revocation has a child support obligation or has paid child support, any support paid prior to the entry of such order shall not be recoverable in any action.

(f) The amendments to this section by this act shall be construed and applied retroactively.”;

Also on page 3, in line 35, by striking "is" and inserting "and 23-2209 are”;

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking all after "paternity”; in line 4, by striking "cases" and inserting "as soon as practicable after discovery”; in line 5, by striking "are considered a" and inserting "shall constitute a change of circumstances that warrants a court finding of”; in line 6, after "23-2204" by inserting "and 23-2209”; also in line 6, by striking "section" and inserting "sections”; and the bill be passed as amended.

\_\_\_\_\_Chairperson