

HOUSE BILL NO. 444

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE NICHOLIA

Introduced: 2/18/98

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to paternity determinations; relating to extinguishment of child
2 support arrearages and public assistance debt and to reimbursement of payments
3 already made to the state on behalf of the child when paternity is
4 administratively disestablished or a court determination of paternity is vacated; and
5 amending Rules 60 and 90.3(h), Alaska Rules of Civil Procedure."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 25.20 is amended by adding a new section to read:

8 **Sec. 25.20.052. Vacation of paternity determinations.** (a) If the results of
9 a genetic test are negative under the standard set out in AS 25.20.050(d), a court shall
10 vacate a previous judgment of paternity that was made by a court in this state if the
11 previous determination was not based on

12 (1) genetic test results that met the standard set out in AS 25.20.050(d)
13 at the time the test was performed; or

1 (2) an acknowledgment of paternity under AS 25.20.050 or an
2 admission of paternity under AS 25.27.165.

3 (b) A person may bring an action under (a) of this section to vacate a previous
4 court determination of paternity at any time but only once per child.

5 (c) If a decision of a court in this state vacates a paternity determination, the
6 petitioner's child support obligation and liability for public assistance under
7 AS 25.27.120 are modified retroactively to extinguish arrearages for child support and
8 accrued liability for public assistance to the extent that the child support and accrued
9 liability for public assistance were based on the paternity decision that is vacated. In
10 addition, if a decision of a court in this state vacates a paternity determination, the
11 state shall reimburse the payments made by the petitioner for public assistance under
12 AS 25.27.120 that were based on the paternity decision that was vacated. This
13 subsection may be implemented only to the extent not prohibited by federal law.

14 * **Sec. 2.** AS 25.27.166(b) is amended to read:

15 (b) The agency's standards and procedures under (a) of this section must

16 (1) allow a person to petition the agency to disestablish paternity only
17 once per child;

18 (2) **subject to the limitation in (1) of this subsection**, allow a petition
19 to disestablish paternity to be brought **at any time** [ONLY WITHIN THREE YEARS
20 AFTER THE CHILD'S BIRTH OR THREE YEARS AFTER THE PETITIONER
21 KNEW OR SHOULD HAVE KNOWN OF THE FATHER'S PUTATIVE
22 PATERNITY OF THE CHILD, WHICHEVER IS LATER]; and

23 (3) provide standards and notice and hearing procedures that are
24 equivalent to those used for establishment of paternity under AS 25.27.165.

25 * **Sec. 3.** AS 25.27.166(d) is amended to read:

26 (d) If a decision under this section disestablishes paternity, the petitioner's
27 child support obligation **and** [OR] liability for public assistance under AS 25.27.120
28 **are** [IS] modified retroactively to extinguish arrearages for child support and accrued
29 liability for public assistance **to the extent that the child support and accrued**
30 **liability for public assistance were** based on the alleged paternity that is
31 disestablished under this section. **In addition, if a decision under this section**

1 **disestablishes paternity, the state shall reimburse payments made by the petitioner**
2 **for public assistance under AS 25.27.120 that were based on the disestablished**
3 **paternity.** This subsection may be implemented only to the extent not prohibited by
4 federal law.

5 * **Sec. 4.** COURT RULE CHANGE; COURT JUDGMENTS. (a) AS 25.20.052(a) and
6 (b), added by sec. 1 of this Act, have the effect of amending Rule 60, Alaska Rules of Civil
7 Procedure, by providing another basis for relief from a judgment or order.

8 (b) AS 25.20.052(a) and (b), added by sec. 1 of this Act, take effect only if this bill
9 section receives the two-thirds majority vote of each house required by art. IV, sec. 15,
10 Constitution of the State of Alaska.

11 * **Sec. 5.** COURT RULE CHANGE; ARREARS. (a) AS 25.20.052(c), added by sec. 1
12 of this Act, and AS 25.27.166(d), as amended by sec. 3 of this Act, have the effect of
13 amending Rule 90.3(h), Alaska Rules of Civil Procedure, by allowing retroactive modification
14 of child support under circumstances involving disestablishment or vacation of paternity
15 decisions.

16 (b) AS 25.20.052(c), added by sec. 1 of this Act, and AS 25.27.166(d), as amended
17 by sec. 3 of this Act, may take effect with only a majority vote of each house of the
18 legislature because the court rule they amend is an interpretive rule not governed by the
19 procedural requirements of art. IV, sec. 15, Constitution of the State of Alaska.