

HB

444

House District 36

Alatna
 Alcan
 Allakaket
 Aniak
 Anvik
 Arctic Village
 Beaver
 Bettles
 Birch Creek
 Canyon Village
 Central
 Chalkyitsik
 Chicken
 Chistochina
 Chitina
 Chuathbaluk
 Circle
 Circle Hot Springs
 Coldfoot
 Copper Center
 Copperville
 Crooked Creek
 Dot Lake
 Dry Creek
 Eagle
 Eagle Village
 Evansville
 Fort Yukon
 Gakona
 Galena
 Grayling
 Gulkana
 Healy Lake
 Holy Cross
 Hughes
 Huslia
 Kaltag
 Koyukuk
 Lime Village
 Livengood
 Lake Minchumina
 Lower Kalskag
 Manley
 Marshall
 McCarthy
 McGrath
 Medfra
 Mentasta
 Minto
 Nabesna
 Nenana
 Nikolai
 Northway
 Nulato
 Pilot Station
 Rampart
 Red Devil
 Ruby
 Russian Mission
 Shageluk
 Slana
 Sleetmute
 Stevens Village
 Stony River
 Takotna
 Tanacross
 Tanana
 Telida
 Tetlin
 Tok
 Tuloksak
 Tyonek
 Upper Kalskag
 Venetie
 Wiseman

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SPONSOR STATEMENT

House Bill 444

In my home village of Tanana lives a man who was named as the father of a child. He always denied being the father of this child, and ultimately genetic tests proved that what he said was true. But he did not respond to the accusations made against him by the State of Alaska, and he could not afford a lawyer to help him. Finally an attorney agreed to represent him and this man went before a judge. The judge listened to all the evidence, and agreed that he was not the father, and disestablished paternity. Initially, the judge also extinguished all the past debt that had accrued--the child support for this child that is not his. But then the judge changed her mind and reinstated the debt--more than \$100,000. So here is my constituent, a married man with two children of his own, who is being forced to pay this huge debt for a child that everyone agrees is not his.

HB 444 attempts to address one of the problems that can lead to the kind of injustice described above. Current law lacks flexibility in dealing with previously incurred debt, in part because the federal government has taken the stance that retroactively modifying a child support debt violates their rules. That is a point for our Congressional delegation to handle. But we need to clarify that in Alaska, a person who has been proven not to be the father and who has always denied parentage should not be strapped with debt.

- This bill adds a new section to Title 25 that requires the court to vacate a paternity decision if genetic tests prove that a man could not be the father of a child, and to extinguish arrearages against him for child support and public assistance.
- HB 444 allows a person to petition to disestablish paternity at any time, so that people not wealthy or sophisticated enough to work through the State's rules and procedures don't end up like my constituent--paying for a child that was never his.
- The bill requires the state to pay back any money collected for public assistance debt.

We all agree that parents should pay for the care of their children. But I think that none of us wishes to see a person unfairly shouldering another person's obligations. My constituent's children are going without because he is being forced to pay for the support of another man's child. I encourage your support for this measure.

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Kaltag
Koyukuk
Lime Village
Livengood
Lake Minchumina
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Manley
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Sectional Analysis House Bill 444

Section 1

Adds a new section requiring a court to vacate a judgment of paternity if a genetic test proves that a man was not the father of a child, as long as the previous determination was not based on a genetic test that was accepted as accurate at the time and the man in question never acknowledged paternity or admitted to be the father of the child in question. A person may bring an action to vacate a court determination of paternity at any time, but only once per child.

If a paternity determination is vacated under this section, then the man's child support obligation or liability for public assistance that the mother had collected are extinguished.

Section 2

Allows a person to petition the Division of Child Support Enforcement to disestablish paternity at any time (currently this must be done within three years "after the petitioner knew or should have known of the father's putative paternity of the child").

Section 3

Requires that if paternity is disestablished, then the state must repay to the petitioner any payments made to the state for the mother's public assistance.

Section 4

Because section 1 has the effect of amending a court rule (Rule 60 regarding providing another basis for relief from a judgment or order), it requires a 2/3 majority vote of each house.

Section 5

Although sections 1 and 3 have the effect of amending a court rule (Rule 90.3(h) by allowing retroactive modification of child support under circumstances involving disestablishment or vacation of paternity decisions), the rule affected is an interpretive rule and thus requires only a simple majority vote of each house of the legislature.