

HOUSE BILL No. 2254

By Committee on Judiciary

2-6

1 AN ACT concerning children and minors; relating to determination of
2 paternity; amending K.S.A. 2012 Supp. 23-2209 and 65-2409a and
3 repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 23-2209 is hereby amended to read as
7 follows: 23-2209. (a) A child or any person on behalf of such a child, may
8 bring an action:

9 (1) At any time to determine the existence of a father and child
10 relationship presumed under K.S.A. 2012 Supp. 23-2208, and amendments
11 thereto; or

12 (2) at any time until three years after the child reaches the age of
13 majority to determine the existence of a father and child relationship which
14 is not presumed under K.S.A. 2012 Supp. 23-2208, and amendments
15 thereto.

16 (b) (1) When authorized under K.S.A. 39-755 or 39-756, and
17 amendments thereto, the secretary of social and rehabilitation services may
18 bring an action at any time during a child's minority to determine the
19 existence of the father and child relationship.

20 (2) *The secretary for children and families may bring an action at*
21 *any time during a child's minority upon receipt of information that the*
22 *mother alleges paternity of the child pursuant to K.S.A. 65-2409a, and*
23 *amendments thereto, to determine paternity of a child for the purpose of*
24 *recovering medical assistance expenses paid by the secretary pursuant to*
25 *K.S.A. 39-719a, and amendments thereto.*

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

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

32 (e) Except as otherwise provided in this subsection, if an
33 acknowledgment of paternity pursuant to K.S.A. 2012 Supp. 23-2204, and
34 amendments thereto, has been completed the man named as the father, the
35 mother or the child may bring an action to revoke the acknowledgment of
36 paternity at any time until one year after the child's date of birth. The legal

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

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

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

21 If an acknowledgment of paternity has been revoked under this
22 subsection, it shall not give rise to a presumption of paternity pursuant to
23 K.S.A. 2012 Supp. 23-2208, and amendments thereto. Nothing in this
24 subsection shall prevent a court from admitting a revoked
25 acknowledgment of paternity into evidence for any other purpose.

26 If there has been an assignment of the child's support rights pursuant to
27 K.S.A. 39-709, and amendments thereto, the secretary of social and
28 rehabilitation services shall be a necessary party to any action under this
29 subsection.

30 Sec. 2. K.S.A. 2012 Supp. 65-2409a is hereby amended to read as
31 follows: 65-2409a. (a) A certificate of birth for each live birth which
32 occurs in this state shall be filed with the state registrar within five days
33 after such birth and shall be registered by such registrar if such certificate
34 has been completed and filed in accordance with this section. If a birth
35 occurs on a moving conveyance, a birth certificate shall indicate as the
36 place of birth the location where the child was first removed from the
37 conveyance.

38 (b) When a birth occurs in an institution, the person in charge of the
39 institution or the person's designated representative shall obtain the
40 personal data, prepare the certificate, secure the signatures required by the
41 certificate and file such certificate with the state registrar. The physician in
42 attendance or, in the absence of the physician, the person in charge of the
43 institution or that person's designated representative shall certify to the

1 facts of birth and provide the medical information required by the
2 certificate within five days after the birth. When a birth occurs outside an
3 institution, the certificate shall be prepared and filed by one of the
4 following in the indicated order of priority: (1) The physician in
5 attendance at or immediately after the birth, or in the absence of such a
6 person; (2) any other person in attendance at or immediately after the birth,
7 or in the absence of such a person; or (3) the father, the mother or, in the
8 absence of the father and the inability of the mother, the person in charge
9 of the premises where the birth occurred.

10 (c) (1) If the mother was married at the time of either conception or
11 birth, or at any time between conception and birth, the name of the
12 husband shall be entered on the certificate as the father of the child unless
13 paternity has been determined otherwise by a court of competent
14 jurisdiction, in which case the name of the father as determined by the
15 court shall be entered.

16 (2) If the mother was not married either at the time of conception or
17 of birth, or at any time between conception and birth:-

18 (A) The name of the father shall not be entered on the certificate of
19 birth without the written consent of the mother and of the person to be
20 named as the father on a form provided by the state registrar pursuant to
21 K.S.A. 2012 Supp. 23-2204, and amendments thereto, unless a
22 determination of paternity has been made by a court of competent
23 jurisdiction, in which case the name of the father as determined by the
24 court shall be entered-; and

25 (B) *the person in charge of the institution or the person's designated*
26 *representative shall document on a form and submit in a manner approved*
27 *by the secretary for children and families any information received from*
28 *the mother alleging paternity of the child, unless:*

29 (i) *A determination of paternity has been made by a court of*
30 *competent jurisdiction;*

31 (ii) *the alleged father does not deny paternity;*

32 (iii) *the alleged father has completed a voluntary acknowledgment of*
33 *paternity meeting the requirements of K.S.A. 23-2204, and amendments*
34 *thereto;*

35 (iv) *the child is the subject of a proceeding under the Kansas*
36 *adoption and relinquishment act, K.S.A. 59-2111, and amendments*
37 *thereto; or*

38 (v) *the child was conceived by the donation of semen provided to a*
39 *licensed physician for use in artificial insemination of the mother.*

40 (d) One of the parents of any child shall sign the certificate of live
41 birth to attest to the accuracy of the personal data entered thereon, in time
42 to permit its filing within the five days prescribed above.

43 (e) Except as otherwise provided by this subsection, a fee of \$4 shall

1 be paid for each certificate of live birth filed with the state registrar. Such
2 fee shall be paid by the parent or parents of the child. If a birth occurs in
3 an institution, the person in charge of the institution or the person's
4 designated representative shall be responsible for collecting the fee and
5 shall remit such fee to the secretary of health and environment not later
6 than the 15th day following the end of the calendar quarter during which
7 the birth occurred. If a birth occurs other than in an institution, the person
8 completing the birth certificate shall be responsible for collecting the fee
9 and shall remit such fee to the secretary of health and environment not
10 later than the 15th day of the month following the birth.

11 The fee provided for by this subsection shall not be required to be paid
12 if the parent or parents of the child are at the time of the birth receiving
13 assistance, as defined by K.S.A. 39-702, and amendments thereto, from
14 the secretary of social and rehabilitation services.

15 (f) Except as provided in this subsection, when a certificate of birth is
16 filed pursuant to this act, each parent shall furnish the social security
17 number or numbers issued to the parent. Social security numbers furnished
18 pursuant to this subsection shall not be recorded on the birth certificate. A
19 parent shall not be required to furnish such person's social security number
20 pursuant to this subsection if no social security number has been issued to
21 the parent; the social security number is unknown; or the secretary
22 determines that good cause, as defined in federal regulations promulgated
23 pursuant to title IV-D of the federal social security act, exists for not
24 requiring the social security number. Nothing in this subsection shall delay
25 the filing or issuance of the birth certificate.

26 Sec. 3. K.S.A. 2012 Supp. 23-2209 and 65-2409a are hereby
27 repealed.

28 Sec. 4. This act shall take effect and be in force from and after its
29 publication in the statute book.