

AMENDMENTS TO LB1139

Introduced by Hallstrom, 1.

1 1. Insert the following new sections:

2 **Sec. 2.** Section 43-1409, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 43-1409 (1) The signing of a notarized acknowledgment, whether under  
5 section 43-1408.01 or otherwise, by the alleged father shall create a  
6 rebuttable presumption of paternity as against the alleged father.

7 (2) The signed, notarized acknowledgment is subject to the right of  
8 any signatory to rescind the acknowledgment within the earlier of (a) ~~(1)~~  
9 sixty days or (b) ~~(2)~~ the date of an administrative or judicial  
10 proceeding relating to the child, including a proceeding to establish a  
11 support order in which the signatory is a party.

12 (3)(a) After the rescission period, a signed, notarized  
13 acknowledgment is considered a legal finding of paternity. Such legal  
14 finding of paternity ~~which~~ may be challenged and set aside only:

15 (i) ~~On~~ on the basis of fraud, duress, or material mistake of fact;  
16 or

17 (ii) By a person who has reason to believe he is the biological  
18 father of the child, on the basis of a scientifically reliable genetic  
19 test that establishes that the acknowledged father is not the biological  
20 father of the child. Such test shall be performed by a laboratory  
21 accredited by the College of American Pathologists or any other national  
22 accrediting body or public agency which has requirements that are  
23 substantially equivalent to or more comprehensive than those of the  
24 college.

25 (b) In a challenge under this subsection, ~~with~~ the burden of proof  
26 shall be upon the challenger, and the legal responsibilities, including  
27 the child support obligation, of any signatory arising from the

1 acknowledgment shall not be suspended during the challenge, except for  
2 good cause shown.

3 (4) Such a signed and notarized acknowledgment or a certified copy  
4 or certified reproduction thereof shall be admissible in evidence in any  
5 proceeding to establish support.

6 (5) The changes made to this section by this legislative bill apply  
7 to actions under sections 43-1401 to 43-1418 that are pending on the  
8 effective date of this act and to cases filed on or after such date.

9 **Sec. 3.** Section 43-1412.01, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 43-1412.01 (1) An individual may file a complaint for relief and the  
12 court may set aside a final judgment, court order, administrative order,  
13 obligation to pay child support, or any other legal determination of  
14 paternity if a scientifically reliable genetic test performed in  
15 accordance with sections 43-1401 to 43-1418 establishes the exclusion of  
16 the individual named as a father in the legal determination. The court  
17 shall appoint a guardian ad litem to represent the interest of the child.  
18 The filing party shall pay the costs of such test.

19 (2) A court that sets aside a determination of paternity in  
20 accordance with this section shall order completion of a new birth record  
21 and may order any other appropriate relief, including setting aside an  
22 obligation to pay child support.

23 (3) No support order may be retroactively modified, but may be  
24 modified with respect to any period during which there is a pending  
25 complaint for relief from a determination of paternity under this  
26 section, but only from the date that notice of the complaint was served  
27 on the nonfiling party.

28 (4) A court shall not grant relief from determination of paternity  
29 if the individual named as father:

30 (a) Completed ~~(1) completed~~ a notarized acknowledgment of paternity  
31 pursuant to section 43-1408.01, unless such acknowledgement has been set

1 aside under subsection (3) of section 43-1409;

2 (b) Adopted ~~(2) adopted~~ the child; τ or

3 (c) Knew ~~(3) knew~~ that the child was conceived through artificial  
4 insemination.

5 (5) The changes made to this section by this legislative bill apply  
6 to actions under sections 43-1401 to 43-1418 that are pending on the  
7 effective date of this act and to cases filed on or after such date.

8 2. Renumber the remaining sections and correct the repealer  
9 accordingly.