

**2021 HOUSE JUDICIARY**

**HB 1134**

# **2021 HOUSE STANDING COMMITTEE MINUTES**

**Judiciary**  
Room JW327B, State Capitol

HB 1134  
1/19/2021

## **Relating to challenging an acknowledgement or denial of paternity.**

**Chairman Klemin** called the hearing to order at 2:00 PM.

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter.

### **Discussion Topics:**

- Time limit for paternity challenges
- Time limit removal
- Parenting situations and effects on the child.
- Court enforced paternal child support.
- Birth certificates
- Signing an acknowledgement at the time of birth
- Genetic tests
- Equity on all sides with regard to the parents.

**Rep. Richter:** Introduced bill: Testimony #1710 2:05

**Rep. Hatlestad:** Oral testimony in support of bill. 2:15

**Judge Hagerty, District Court Judge:** Testimony #1305 2:15

**Kim Walker:** Parent: Oral testimony 2:35

**Jim Funding, Child Support:** Oral testimony. 2:43

**Additional written testimony:** #3363, #3364, #3276

**Chairman Klemin** adjourned 3:04

DeLores D. Shimek  
Committee Clerk

Richter

House Bill 1134  
Testimony of David Richter  
House Judiciary Committee  
January 19, 2021

Chairman Klemin and members of the House Judiciary Committee, thank you for the opportunity to testify before the committee. My name is David Richter, Representative District 1. HB 1134 relates to the Uniform Parentage Act adopted in North Dakota in 2005 and amends 14-20-18 of NDCC challenging acknowledgment of paternity.

Section 301-303 of the Uniform Parentage Act outlines the process for a man to acknowledge genetic parentage of a child. A man can rescind the acknowledgment or denial of paternity “before 60 days of the acceptance or denial or the date or before the first hearing to adjudicate an issue relating to the child including a proceeding that establishes support”.

Section 308 of the Uniform Parentage Act which is 14-20-18 of NDCC speaks to the time period a man may challenge paternity after the period of recession has past. In North Dakota a man has two years to challenge. There are three conditions that a man can challenge fraud, duress, or material mistake of fact. This bill removes the time limit for fraud and material mistake of fact.

If a man proves he is not the biological father through a DNA test, under current ND if it is past the two year limit, in the eyes of the court, he is still considered the father with the responsibilities including child support. A man with no biological relationship and no parent-like relationship with the child is still responsible for payment of child support even though all adult parties know he is not the biological father. If the man has a family and children that live with him, income that would be going to support his family is instead going towards supporting a child which is not his and may be causing a financial hardship on the children that live with him. This bill rectifies that.

Burden of proof of fraud or material mistake of fact falls on the man and proof of non-paternity also falls on the man.

I will stand for any questions.

**Testimony in Opposition to House Bill No. 1134****House Judiciary Committee  
Hearing January 19, 2021 at 2 p.m.**

Mr. Chairman, members of the House Judiciary Committee:

I am Gail Hagerty. I'm a former district court judge and a current uniform law commissioner.

I was a member of the Uniform Law Commission committee which drafted the Uniform Parentage Act which was enacted in North Dakota. The provision which is impacted by this bill is one that deals with challenge of an acknowledgement of paternity.

The signatories to an acknowledgment of paternity include both the mother and the father.

Both signatories are given an opportunity to challenge the acknowledgement under current law.

In allowing for challenges, there are two major parties whose interests are impacted. One is a person who signed an acknowledgement of paternity. Either of the people who signed the document may challenge – the mother or the person who acknowledges paternity. Of course there are difficult situations in which a person might sign an acknowledgement and later question paternity. Under the current law, that person has an opportunity to challenge paternity during a two-year window of time.

The other party whose interest must be considered is the child for whom paternity was established. From my many years of handling cases involving parenting, I know that children are greatly impacted by uncertainty and by being turned away or taken away from a person who has acted as a parent over a period of years.

In weighing these competing interests, the uniform act provides for a challenge within a two-year period, but does not allow for the possibility of the breaking of a parent-child relationship after that period of time. After two years, the child's interest outweighs the interest of a person who had acknowledged paternity.

If the provision is changed, I predict that paternity will become an issue in a large number of cases involving parenting and child support. Whether or not the acknowledgement of paternity is set aside, the child will be the most hurt by the proceeding.

Because this bill would allow for a challenge based on fraud or material mistake of fact beyond a two-year period, I urge a "do-not" pass recommendation on House Bill No. 1134.

21.0387.01001  
Title.

Prepared by the Legislative Council staff for  
Representative Klemin  
January 25, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1134

Page 1, line 10, remove the overstrike over "or material mistake of fact;"

Page 1, line 13, replace "or material mistake of fact" with "in accordance with subsection 6 of section 28-01-16"

Renumber accordingly

21.0387.01001

Sixty-seventh  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1134**

Introduced by

Representatives Richter, Hatlestad, Longmuir

Senator Rust

- 1 A BILL for an Act to amend and reenact section 14-20-18 of the North Dakota Century Code,
- 2 relating to challenging an acknowledgment or denial of paternity.

**3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1. AMENDMENT.** Section 14-20-18 of the North Dakota Century Code is
- 5 amended and reenacted as follows:

**6 14-20-18. (308) Challenge after expiration of period for rescission.**

- 7 1. After the period for rescission under section 14-20-17 has expired, a signatory of an
- 8 acknowledgment of paternity or denial of paternity may commence a proceeding to
- 9 challenge the acknowledgment or denial only:

- 10 a. On the basis of fraud, duress, **or material mistake of fact;** and
- 11 b. **Within** within two years after the acknowledgment or denial is filed with the state
- 12 department of health; or
- 13 b. **On the basis of fraud** **or material mistake of fact** **in accordance with subsection 6**
- 14 **of section 28-01-16.**

- 15 2. A party challenging an acknowledgment of paternity or denial of paternity has the
- 16 burden of proof.

Sixty-seventh Legislative Assembly of North Dakota

Re: Testimony in opposition to HB 1334

Attn: Committee Members,

I, Todd Kjelland am writing in opposition to HB 1334 because I believe by passing this bill, defending corporate entities or other entities with monetary advantages could falsely influence the court to declare a case frivolous as undue punishment. This bill disadvantages the plaintiff if a suit is filed against entities of wealth in good faith.

I believe a case declaring frivolous filing of a lawsuit should not be a decision of the court unless filed equally by the defendant, because that also gives the defeated plaintiff equal opportunity to seek a frivolous claim. Judges should not interfere with filings of lawsuits on behalf of a prevailing filer.

Thank you for your consideration to NOT PASS HB 1334

Todd Kjelland

[emocoach@live.com](mailto:emocoach@live.com)

701-331-2956

# 2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary  
Room JW327B, State Capitol

HB 1134  
2/9/2021

**Relating to challenging an acknowledgement or denial of paternity.**

**Chairman Klemin called the hearing to order at 3:51 PM.**

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Satrom, and Vetter. Absent: Rep Roers Jones

**Discussion Topics:**

- Amendment

Rep Satrom moved to adopt the amendment (21.0387.01001), second by Rep. Paulson. Voice vote. Motion carried

Rep Satrom moved a Do Pass as Amended, seconded by Rep Jones.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Rick Becker	Y
Representative Ruth Buffalo	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Karla Rose Hanson	N
Representative Terry B. Jones	Y
Representative Jeffery J. Magrum	Y
Representative Bob Paulson	Y
Representative Gary Paur	Y
Representative Shannon Roers Jones	AB
Representative Bernie Satrom	Y
Representative Steve Vetter	N

Motion carried. 11 – 2 – 1 Rep Jones is carrier

**4:06 PM** meeting adjourned.

DeLores D. Shimek  
Committee Clerk

21.0387.01001  
Title.02000

Prepared by the Legislative Council staff for  
Representative Klemin

January 25, 2021

gj  
2/9/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1134

Page 1, line 10, remove the overstrike over "or material mistake of fact"

Page 1, line 13, replace "or material mistake of fact" with "in accordance with subsection 6 of section 28-01-16"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1134: Judiciary Committee (Rep. Klemm, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1134 was placed on the Sixth order on the calendar.

Page 1, line 10, remove the overstrike over "or material mistake of fact"

Page 1, line 13, replace "or material mistake of fact" with "in accordance with subsection 6 of section 28-01-16"

Renumber accordingly

**2021 SENATE JUDICIARY**

**HB 1134**

# 2021 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Peace Garden Room, State Capitol

HB 1134 AM  
3/17/2021

Relating to challenging an acknowledgment or denial of paternity

Hearing called to order, [9:00] all senators are present: **Myrdal, Luick, Dwyer, Bakke, Heitkamp, Fors, and Larson.**

**Discussion Topics:**

- Paternity civil claims deadline
- Legal status of paternity

**Representative Richter** [9:01] Legislative Assembly testified in favor #9703

**Jim Fleming** [9:13] DHS Child Support, provided Oral testimony, Neutral

Hearing adjourned [9:26]

*Jamal Omar, Committee Clerk*

Richter  
House Bill 1134  
Testimony of David Richter  
Senate Judiciary Committee  
March 17, 2021

Madam Chair and members of the Senate Judiciary Committee. My name is David Richter, Representative District , Williston. HB 1134 relates to the Uniform Parentage Act adopted in North Dakota in 2005 and amends 14-20-18 of NDCC challenging acknowledgment of paternity.

Section 301-303 of the Uniform Parentage Act outlines the process for a man to acknowledge genetic parentage of a child. A man can rescind the acknowledgment or denial of paternity "before 60 days of the acceptance or denial or before the first hearing to adjudicate an issue relating to the child including a proceeding that establishes support". Section 308 of the Uniform Parentage Act which is 14-20-18 of NDCC speaks to the time period a man may challenge paternity after the period of recession has past. In North Dakota a man has two years to challenge. There are three conditions that a man can challenge under fraud, duress, or material mistake of fact. This bill in its original form removed the time limit for fraud and material mistake of fact. The amended version only affects fraud by matching it to the 6 year statute of limitations for fraud in NDCC subsection 6 of section 28-01-16.

If a man proves he is not the biological father through a DNA test, under current ND law if it is past the two year limit, in the eyes of the court, he is still considered the father with the responsibilities including child support. A man with no biological relationship and no parent-like relationship with the child is still responsible for payment of child support even though all adult parties know he is not the biological father. If the man has a family and children that live with him, income that would be going to support his family is instead going towards supporting a child which is not his and may be causing a financial hardship on the children that live with him. This bill changes the two year limit on fraud to six years.

If a man proves he is the biological father through DNA test, under current law if it is past the two year limit, he can be denied paternity and the rights that go with it, even though the proof is that he is the biological father.

Burden of proof of fraud falls on the man and proof of non-paternity also falls on the man.

I will stand for any questions.

# 2021 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Peace Garden Room, State Capitol

HB 1134 PM  
3/22/2021

Relating to challenging an acknowledgment or denial of paternity

Hearing called to order, [10:14] all senators are present: **Myrdal, Luick, Dwyer, Bakke, Heitkamp, Fors, and Larson.**

**Discussion Topics:**

- Department of Human Services Budget

**Senator Luick** [10:22] moved a DO NOT PASS  
**Senator Myrdal** seconded the motion

The motion passes 7-0-0  
**Senator Luick** carried

<b>DO NOT PASS On HB 1134</b>	<b>Vote</b>
Senator Janne Myrdal	Y
Senator Larry Luick	Y
Senator Michael Dwyer	Y
Senator Jason G. Heitkamp	Y
Senator Robert O. Fors	Y
Senator JoNell A. Bakke	Y
Senator Diane Larson	Y

Hearing adjourned [10:30]

*Sheila Froehlich for Jamal Omar, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1134, as engrossed:** Judiciary Committee (Sen. Larson, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1134 was placed on the Fourteenth order on the calendar.