



Rep. Kelly M. Burke

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LRB099 16017 HEP 45629 a

1 AMENDMENT TO HOUSE BILL 4447

2 AMENDMENT NO. _____. Amend House Bill 4447 on page 1, line
3 5, by changing "304," to "303, 304, 305, 307, 308, 309, 310,
4 311, 312, 313,"; and

5 on page 1, line 6, by changing "and 809" to "809, 903, and
6 904"; and

7 on page 11, by replacing lines 7 through 13 with the following:

8 "(5) state that the signatories understand that the
9 voluntary acknowledgment is the equivalent of a judicial
10 adjudication of parentage of the child and that: (i) a
11 challenge by a signatory to the voluntary acknowledgment
12 may be permitted only upon a showing of fraud, duress, or
13 material mistake of fact; and (ii) a challenge to the
14 voluntary acknowledgment is barred after 2 years unless
15 that period is tolled pursuant to the law ~~a challenge to~~

1 ~~the acknowledgment is permitted only under limited~~
2 ~~circumstances and is barred after 2 years."; and~~

3 on page 11, line 23, by changing "an" to "a voluntary an"; and

4 on page 11, by inserting immediately below line 25 the
5 following:

6 "(750 ILCS 46/303)

7 Sec. 303. Denial of parentage. A presumed parent may sign a
8 denial of parentage. The denial is valid only if:

9 (a) a voluntary acknowledgment described in Section
10 301 of this Act signed, or otherwise authenticated, by a
11 man is filed pursuant to Section 305 of this Act;

12 (b) the denial is in a record, and is signed, or
13 otherwise authenticated, under penalty of perjury; and

14 (c) the presumed parent has not previously:

15 (1) acknowledged his parentage, unless the
16 previous voluntary acknowledgment has been rescinded
17 under Section 307 of this Act or successfully
18 challenged under Section 308 of this Act; or

19 (2) been adjudicated to be the parent of the child.

20 (Source: P.A. 99-85, eff. 1-1-16.)"; and

21 on page 12, line 2, after "for", by inserting "voluntary"; and

1 on page 12, line 3, by changing "An" to "A voluntary ~~An~~"; and
2 on page 12, line 4, after "denial", by inserting "of
3 parentage"; and
4 on page 12, line 6, after "the", by inserting "voluntary"; and
5 on page 12, line 8, by changing "An" to "A voluntary ~~An~~"; and
6 on page 12, line 14, by changing "An" to "A voluntary ~~An~~"; and
7 on page 12, by inserting immediately below line 16 the
8 following:

9 "(750 ILCS 46/305)

10 Sec. 305. Effect of voluntary acknowledgment or denial of
11 parentage.

12 (a) Except as otherwise provided in Sections 307 and 308 of
13 this Act, a valid voluntary acknowledgment filed with the
14 Department of Healthcare and Family Services, as provided by
15 law, is equivalent to an adjudication of the parentage of a
16 child and confers upon the acknowledged father all of the
17 rights and duties of a parent.

18 (b) Notwithstanding any other provision of this Act,
19 parentage established in accordance with Section 301 of this
20 Act has the full force and effect of a judgment entered under

1 this Act and serves as a basis for seeking a child support
2 order without any further proceedings to establish parentage.

3 (c) Except as otherwise provided in Sections 307 and 308 of
4 this Act, a valid denial by a presumed parent filed with the
5 Department of Healthcare and Family Services, as provided by
6 law, in conjunction with a voluntary acknowledgment, is
7 equivalent to an adjudication of the nonparentage of the
8 presumed parent and discharges the presumed parent from all
9 rights and duties of a parent.

10 (Source: P.A. 99-85, eff. 1-1-16.)

11 (750 ILCS 46/307)

12 Sec. 307. Proceeding for rescission. A signatory may
13 rescind a voluntary acknowledgment or denial by filing a signed
14 and witnessed rescission with the Department of Healthcare and
15 Family Services as provided in Section 12 of the Vital Records
16 Act, before the earlier of:

17 (a) 60 days after the effective date of the voluntary
18 acknowledgment or denial, as provided in Section 304 of
19 this Act; or

20 (b) the date of a judicial or administrative proceeding
21 relating to the child (including a proceeding to establish
22 a support order) in which the signatory is a party.

23 (Source: P.A. 99-85, eff. 1-1-16.)

24 (750 ILCS 46/308)

1 Sec. 308. Challenge after expiration of period for
2 rescission. After the period for rescission under Section 307
3 of this Act has expired, a signatory of a voluntary
4 acknowledgment or denial may commence a proceeding to challenge
5 the voluntary acknowledgment or denial only as provided in
6 Section 309 of this Act.

7 (Source: P.A. 99-85, eff. 1-1-16.)

8 (750 ILCS 46/309)

9 Sec. 309. Procedure for challenge.

10 (a) A voluntary acknowledgment and any related denial may
11 be challenged only on the basis of fraud, duress, or material
12 mistake of fact by filing a verified petition under this
13 Section within 2 years after the effective date of the
14 voluntary acknowledgment or denial, as provided in Section 304
15 of this Act. Time during which the person challenging the
16 voluntary acknowledgment or denial is under legal disability or
17 duress or the ground for relief is fraudulently concealed shall
18 be excluded in computing the period of 2 years.

19 (b) The verified complaint, which shall be designated a
20 petition, shall be filed in the county where a proceeding
21 relating to the child was brought, such as a support proceeding
22 or, if none exists, in the county where the child resides.
23 Every signatory to the voluntary acknowledgment and any related
24 denial must be made a party to a proceeding to challenge the
25 voluntary acknowledgment or denial. The party challenging the

1 voluntary acknowledgment or denial shall have the burden of
2 proof. The burden of proof to challenge a voluntary
3 acknowledgment is clear and convincing evidence.

4 (c) For the purpose of a challenge to a voluntary ~~an~~
5 acknowledgment or denial, a signatory submits to personal
6 jurisdiction of this State by signing the voluntary
7 acknowledgment and any related denial, effective upon the
8 filing of the voluntary acknowledgment and any related denial
9 with the Department of Healthcare and Family Services, as
10 provided in Section 12 of the Vital Records Act.

11 (d) Except for good cause shown, during the pendency of a
12 proceeding to challenge a voluntary ~~an~~ acknowledgment or
13 denial, the court may not suspend the legal responsibilities of
14 a signatory arising from the voluntary acknowledgment,
15 including the duty to pay child support.

16 (e) At the conclusion of a proceeding to challenge a
17 voluntary ~~an~~ acknowledgment or denial, the court shall order
18 the Department of Public Health to amend the birth record of
19 the child, if appropriate. A copy of an order entered at the
20 conclusion of a proceeding to challenge shall be provided to
21 the Department of Healthcare and Family Services.

22 (Source: P.A. 99-85, eff. 1-1-16.)

23 (750 ILCS 46/310)

24 Sec. 310. Ratification barred. A court or administrative
25 agency conducting a judicial or administrative proceeding is

1 not required or permitted to ratify an unchallenged voluntary
2 acknowledgment described in Section 301 of this Act.

3 (Source: P.A. 99-85, eff. 1-1-16.)

4 (750 ILCS 46/311)

5 Sec. 311. Full faith and credit. A court of this State
6 shall give full faith and credit to a valid voluntary
7 acknowledgment or denial of parentage effective in another
8 state if the voluntary acknowledgment or denial has been signed
9 and is otherwise in compliance with the law of the other state.

10 (Source: P.A. 99-85, eff. 1-1-16.)

11 (750 ILCS 46/312)

12 Sec. 312. Forms for voluntary acknowledgment and denial of
13 parentage.

14 (a) To facilitate compliance with this Article, the
15 Department of Healthcare and Family Services shall prescribe
16 forms for the voluntary acknowledgment and ~~the~~ denial of
17 parentage and for the rescission of the voluntary
18 acknowledgment or denial of parentage consistent with Section
19 307 of this Act.

20 (b) A voluntary acknowledgment, ~~or~~ denial, or rescission of
21 voluntary acknowledgment or denial of parentage, regardless of
22 which version of the prescribed form is used, is not affected
23 by a later modification of the prescribed form.

24 (c) Any voluntary acknowledgment, denial, or rescission of

1 voluntary acknowledgement or denial of parentage that was
2 completed before January 1, 2016 is valid if it met all
3 criteria for validity at the time it was signed.

4 (Source: P.A. 99-85, eff. 1-1-16.)

5 (750 ILCS 46/313)

6 Sec. 313. Release of information. The Department of
7 Healthcare and Family Services may release information
8 relating to the voluntary acknowledgment described in Section
9 301 of this Act, or the related denial, to a signatory of the
10 voluntary acknowledgment or denial; to the child's guardian,
11 the emancipated child, or the legal representatives of those
12 individuals; to appropriate federal agencies; and to courts and
13 appropriate agencies of this State or another state.

14 (Source: P.A. 99-85, eff. 1-1-16.)"; and

15 on page 12, line 21, after "child", by inserting ", including a
16 non-minor child with a disability,"; and

17 on page 13, line 10, by changing "505 and 505.2" to "505, and
18 505.2, and 513.5"; and

19 on page 16, by replacing lines 21 through 23 with the
20 following:

21 "(g) any person or public agency that has physical

1 possession of or has custody of or has been allocated
2 parental responsibilities for ~~custody of~~, is providing
3 financial"; and

4 on page 18, line 6, by changing "child representative" to
5 "representative for the child"; and

6 on page 24, by replacing lines 21 through 26 with the
7 following:

8 "(c) In the absence of an explicit order or judgment for
9 the allocation of parental responsibilities ~~If a judgment of~~
10 ~~parentage contains no explicit award of custody,~~ the
11 establishment of a child support obligation or the allocation
12 of parenting time ~~to rights in~~ one parent shall be construed as
13 an order or judgment allocating all parental responsibilities
14 ~~considered a judgment granting custody~~ to the other parent. If
15 the parentage order or judgment contains no such provisions,
16 all parental responsibilities ~~custody~~ shall be presumed to be
17 allocated to ~~with~~ the mother; however, the presumption shall
18 not apply if the child has resided primarily with the other
19 parent ~~father has had physical custody~~ for at least 6 months
20 prior to the date that the mother seeks to enforce the order or
21 judgment of parentage ~~custodial rights.~~"; and

22 on page 25, by deleting lines 1 through 6; and

1 on page 25, line 21, by changing "father's prior knowledge" to
2 "~~father's~~ prior knowledge of the person obligated to pay
3 support"; and

4 on page 25, line 26, by changing "father" to "person obligated
5 to pay support ~~father~~"; and

6 on page 26, line 1, by changing "his help" to "the ~~his~~ help of
7 the person obligated to pay support"; and

8 on page 26, line 5, by changing "father" to "person obligated
9 to pay support ~~father~~"; and

10 on page 26, line 10, by changing "father's net income" to
11 "~~father's~~ net income of the person obligated to pay support";
12 and

13 on page 26, line 11, by changing "his net income" to "the ~~his~~
14 net income of the person obligated to pay support"; and

15 on page 26, line 13, by changing "non-custodial parent" to
16 "person obligated to pay support ~~non-custodial parent~~"; and

17 on page 26, line 15, by changing "non-custodial parent's
18 ability to pay child support" to "~~non-custodial parent's~~

1 ability to pay child support of the person obligated to pay
2 support"; and

3 on page 26, line 16, by changing "non-custodial parent" to
4 "person obligated to pay support ~~non-custodial parent~~"; and

5 on page 26, line 18, by changing "non-custodial parent" to
6 "person obligated to pay support ~~non-custodial parent~~"; and

7 on page 26, line 21, by changing "non-custodial parent's
8 ability to pay child support" to "~~non-custodial parent's~~
9 ability to pay child support of the person obligated to pay
10 support"; and

11 on page 35, line 21, by changing "physical possession" to
12 "custody"; and

13 on page 39, by inserting immediately below line 22 the
14 following:

15 "(750 ILCS 46/903)

16 Sec. 903. Transitional provision. A proceeding to
17 adjudicate parentage which was commenced before the effective
18 date of this Act is governed by the law in effect at the time
19 the proceeding was commenced, except that this Act applies to
20 all pending actions and proceedings commenced before January 1,

1 2016 with respect to issues on which a judgment has not been
2 entered.

3 (Source: P.A. 99-85, eff. 1-1-16.)

4 (750 ILCS 46/904)

5 Sec. 904. Savings provision. The repeal of the Illinois
6 Parentage Act of 1984 ~~and the Illinois Parentage Act~~ shall not
7 affect rights or liabilities under that Act ~~those Acts~~ which
8 have been determined, settled, or adjudicated prior to the
9 effective date of this Act ~~or which are the subject of~~
10 ~~proceedings pending on the effective date of this Act.~~ This Act
11 shall not be construed to bar an action which would have been
12 barred because the action had not been filed within a time
13 limitation under the Illinois Parentage Act of 1984 ~~and the~~
14 ~~Illinois Parentage Act~~, or which could not have been maintained
15 under that Act ~~those Acts~~, as long as the action is not barred
16 by a limitations period set forth in this Act.

17 (Source: P.A. 99-85, eff. 1-1-16.)".