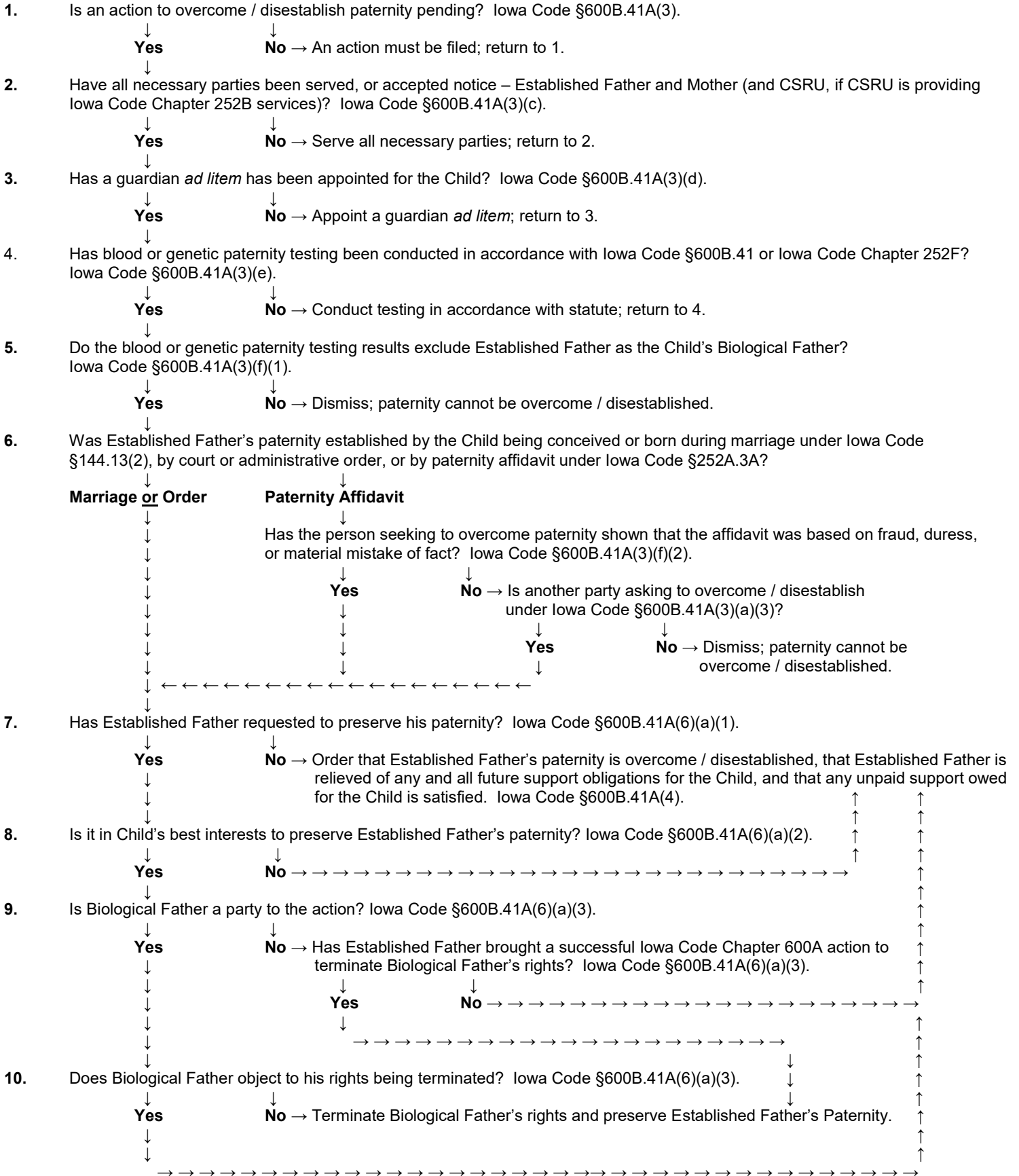


OVERCOMING PATERNITY

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OVERCOMING / DISESTABLISHING PATERNITY UNDER IOWA CODE §600B.41A



OVERCOMING PATERNITY NOTES

Overcoming Paternity When Established by Affidavit

If paternity was established by affidavit, the party seeking to overcome paternity must show that the affidavit was the result of “fraud, duress, or material mistake of fact.” Iowa Code §600B.41A(3)(f)(2) (2020). In *Smith v. Widmyer*, No. 01-0863, 2002 WL 575794 (Iowa Ct. App. Mar. 13, 2002), mother tried to overcome paternity by arguing that there was a material mistake of fact when she signed the paternity affidavit. *Id.* at *2-3. When the affidavit was signed, both the mother and established father were aware that another man could be the father of the child, but they nonetheless signed and filed the affidavit. *Id.* at *1. Noting that mother was a high school graduate, had completed one year of college, and that “the nature of the paternity affidavit [was] clear[.]” the court held that mother could not show a material mistake of fact by arguing that she may have been mistaken about the document she was signing. *Id.* at *3. Thus, the court held that she was unable to meet her burden under the statute to overcome established father’s paternity, notwithstanding the fact that genetic tests showed that he was not the child’s biological father. *Id.*; accord *In re Hendrickson*, No. 13-0540, 2013 WL 6388649, at *1 (Iowa Ct. App. Dec. 5, 2013) (affirming district court’s entry of summary judgment for biological father when mother failed to demonstrate that paternity affidavit establishing another man who would later become her husband as the child’s father was the result of fraud). Similarly, in *Wilson v. Jacques*, No. 17-2001, 2019 WL 2372091 (Iowa Ct. App. June 5, 2019), the court preserved the non-biological father’s paternity, which had been established by paternity affidavit, noting that in addition to mother’s failure to show fraud in the paternity affidavit, paternity was established pursuant to Iowa Code §252A.3(10)(b) by established father’s in-court testimony that he was the child’s biological father and confirmation by mother’s attorney that “[mother] has never contested that [established father] is the biological father of this child.” *Id.* at *6.

GAL Must Be Appointed:

The overcoming paternity statute requires the appointment of a guardian *ad litem* (“GAL”) for the child. Iowa Code §600B.41A(3)(d) (2020). See *Dye v. Geiger*, 554 N.W.2d 538, 539 (Iowa 1996) (the appointment of a GAL for the child is one of the statutory conditions that “must be satisfied by the petitioner.”); *In re Marriage of Null*, No. 04-0873, 2005 WL 600243, at *3 (Iowa Ct. App. Mar. 16, 2005) (“The legislature has explicitly made the appointment of a guardian ad litem a condition precedent to a finding that paternity should be overcome.... [W]e are not convinced ... that the unique circumstances of the case, and the interests of justice, support a waiver of the statutory requirement.”).

Role of the GAL:

Generally, “[t]he [GAL] is not designed to be the decision-maker, and is an advocate for the child, not the parents or the State. It is simply not sufficient for a [GAL] to sit back, review the record and the arguments, and arrive at a decision... Neither is it sufficient for a [GAL] to be a handmaiden to one of the adversary parties. Usually there will be limited number of options for which to advocate ... and the [GAL] will often have a position consistent with one of the adverse parties and in opposition to another. This, however, must be solely as an advocate for the interests of the children. Otherwise, the [GAL] is merely perfunctory, serving only to fulfill arcane, if not empty, requirements of due process.” *In re J.V.*, 464 N.W.2d 887, 893 (Iowa Ct. App. 1990) (emphasis added; overruled on other grounds by *In re P.L.*, 778 N.W.2d 33, (Iowa 2010)).

“In proceedings to overcome and establish paternity the [GAL] accomplishes his or her role, in part, by assuring that the biological father of the child is correctly identified, and that the appropriate individual is either established or disestablished as a parent of the child These interests may be, but are not necessarily, consistent with the interests of the various adults involved in the paternity proceeding.” *In re Marriage of Null*, No. 04-0873, 2005 WL 600243, at *4 (Iowa Ct. App. Mar. 16, 2005).

Prior to 1997, Iowa Code §600B.41A required a finding by the court that overcoming the establishment of paternity was in the best interests of the child. See Iowa Code §600B.41A(3)(g) (1995), and *Dye v. Geiger*, 554 N.W.2d 538, 539 (Iowa 1996). However, in 1997 the statute was amended to eliminate the best

interests requirement from the provision governing the overcoming of paternity, and a best interests requirement was added to the provision governing the preservation of paternity. See Iowa Code §600B.41A(6)(a)(2) (2020). Thus, the GAL must advocate for, and the court must determine, the child's best interests when the established father has been excluded by genetic testing but the established father wants to preserve the paternity determination.

Blood or Genetic Testing Required

Blood or genetic testing must be conducted in accordance with Iowa Code §600B.41 or Iowa Code Chapter 252F. Iowa Code §600B.41A(3)(e) (2020). The Court must find that the appointed expert concludes that paternity testing demonstrates that the established father is not the biological father of the child. Iowa Code §600B.41A(3)(f)(1) (2020). See *In re Marriage of Schneckloth*, 320 N.W.2d 535, 538 (Iowa 1982) (testimony of a physician conclusively excluded husband as child's father based upon the respective parties' blood types).

Preserving Paternity

An established father may seek to preserve paternity and the parent-child relationship under Iowa Code §600B.41A(6)(a)(1) (2020). See *Ledesma v. Gutierrez*, No. 13-0693, 2014 WL 468171, at *1-2 (Iowa Ct. App. Feb. 5, 2014) (affirming district court's denial of biological father's petition to establish paternity/overcome established father's paternity where established father had raised the child since birth, sought to preserve established paternity, and the court concluded disestablishment was not in the child's best interests). A "'Parent-child relationship" means the relationship between a parent and a child recognized by the law as conferring certain rights and privileges and imposing certain duties. The term extends equally to every child and every parent, regardless of the marital status of the parents of the child. The rights, duties, and privileges recognized in the parent-child relationship include those which are maintained by a guardian, custodian, and guardian *ad litem*." Iowa Code §600A.2(16) (2020). The court may dismiss the action to overcome paternity and preserve the established father's paternity under Iowa Code §600B.41A(6)(a) (2020) only if all of the following apply:

- (1). The established father requests that paternity be preserved and that the parent-child relationship, as defined in section 600A.2, be continued.
- (2). The court finds that it is in the best interest of the child to preserve paternity. In determining the best interest of the child, the court shall consider all of the following:
 - (a). The age of the child.
 - (b). The length of time since the establishment of paternity.
 - (c). The previous relationship between the child and the established father, including but not limited to the duration and frequency of any time periods during which the child and established father resided in the same household or engaged in a parent-child relationship as defined in section 600A.2.
 - (d). The possibility that the child could benefit by establishing the child's actual paternity.
 - (e). Additional factors which the court determines are relevant to the individual situation.
- (3). The biological father is a party to the action and does not object to termination of the biological father's parental rights, or the established father petitions the court for termination of the biological father's parental rights and the court grants the petition pursuant to chapter 600A.

Iowa Code §600B.41A(6)(a) (2020).

Best Interests of the Child

To preserve the established father's paternity, the court must determine that preservation is in the child's best interests. See *Ledesma v. Gutierrez*, No. 13-0693, 2014 WL 468171, at *4-5 (Iowa Ct. App., Feb. 5, 2014) (affirming the district court's determination that the factors the court must consider under this section favored preservation of the established father's paternity and that disestablishment would be contrary to the child's best interests). But see *In re Briggs*, No. 07-0730, 2008 WL 239020, at *4 (Iowa Ct. App. Jan. 30, 2008) (court reversed district court's ruling that biological father had waived his right to establish paternity where the court determined he did not have actual or sufficient constructive knowledge of his paternity. The court, however, did not disestablish the legal father/husband; instead the court remanded the matter for a new trial to determine whether or not the preservation of established father's paternity was appropriate). Factors to be considered by the court in determining the child's best interests include:

Biological Father a Party or TPR'd

To preserve the established father's paternity, the biological father must be a party and not object to termination of his parental rights or the court grants established father's petition to terminate the biological father's parental rights. Iowa Code §600B.41A(6)(a)(3) (2020). In *In re Fiscus*, 819 N.W.2d 420 (Iowa Ct. App. 2012), where the court noted that the "[child's biological father] was not a party to the petition to overcome paternity and did not consent to the termination of his parental rights, the only way for [ex-husband/established father] to defend against [mother's] petition and preserve his paternity was to petition the court to terminate [biological father's] rights under chapter 600A." *Id.* at 424. See also *Ledesma v. Gutierrez*, No. 13-0693, 2014 WL 468171, at *3 (Iowa Ct. App. Feb. 5, 2014) (affirming the district court and finding that the established father had requested, and the district court had decided, that the biological father's rights to paternity should be terminated pursuant to section 600B.41A(6)).

Support and Paternity Cases – General Information Needed

Initial Q's – These answers help determine income, allow addressing paternity issues, and determine deductions (“Child” or “Children” includes biological and/or adopted).

How many children do you have together?

How many?

Ages?

Has paternity been established for each of these children?

In whom is paternity established?

Do either of you have any other children besides the ones you have together?

Which of you have these other children?

How many?

Ages?

Has paternity been established for each of these other children?

In whom is paternity established?

Is female spouse now pregnant? (this should be asked for both male-female marriages and female-female marriages - for female-female marriages, it should be asked of both spouses; party should be directed to update this if it changes).

What is your income?

Source(s)?

Seasonal?

How long?

Provide paycheck stubs, tax returns (with schedules and W2s / 1099s).

If not working, why?

Employment history?

What is ex's income?

How do you know?

Source(s)?

Seasonal?

How long?

Ask for paycheck stubs, tax returns (with schedules and W2s / 1099s).

If not working, why?

Employment history?

Iowa Wage Survey available through Workforce Development Website is helpful.

Ask these of both parents, and note that a health benefit plan *can* include Medicaid.

Are the children presently covered by a health insurance or medical health benefit plan?

Yes

Plan name?

Who enrolled them, who pays?

If Hawk-I, what is the total premium cost per month?

No

How are the children's health needs addressed?

Do you have a health insurance plan available for the children?

Total premium cost to cover the children?

Total premium cost just to cover you?

How many people total are covered by the plan (you, spouse, kids)?

Q's to ask before obtaining final order:

Since this action was started, have either of you had any other children, either with the soon-to-be-ex, or with someone else?

Which of you have these other children?

How many?

Ages?

Has paternity been established for each of these other children?

In whom is paternity established?

Is female spouse now pregnant? (this should be asked for both male-female marriages and female-female marriages - for female-female marriages, it should be asked of both spouses. Include a line in the findings of the final decree that no female spouse is now pregnant).

Has your income changed?

Why?

What is it now?

Has ex's income changed?

Why?

What is it now?

Has health insurance changed?

Why?

What is it now?

Generic Tips

In dissolutions, if making a finding that the husband is not the father of a child born or conceived during the marriage, carry the finding into the decretal portion of the order, and address whether that paternity is overcome.

When overcoming paternity, remember that GALs are required under both 598.21E Iowa Code and 600B.41A Iowa Code.

Remember that the presumption of parentage is created by the child being born or conceived during the marriage, that this can occur in a same-gender marriage, and should be addressed.

When ordering support, ensure that Guidelines Worksheets are filed. If no Guidelines Worksheet is filed, spell out the findings for the parents' respective gross incomes and net incomes. It's easier to file a Guidelines Worksheet and incorporate it by reference into the decree.

Include changes in the amount of child support as the number of children change.

Make a finding as to the reasonable cost of a health benefit plan, so that when a person is ordered "to provide insurance if it's available at a reasonable cost," they know what "reasonable cost" means. Reasonable used to mean available; now it has a specific dollar figure attached, based on a percentage of monthly gross income.

Title 19 Medicaid is not health insurance, and finding that the parents have the child enrolled does not dispense with the need to order medical support.

That a child is enrolled in Title 19 Medicaid coverage does not necessarily mean that an order for cash medical support is required. Follow the hierarchy set out in Chapter 252E Iowa Code, and the methods set forth in Chapter 9 Iowa Court Rules.

There's no need to re-invent support duration language if the intent is to merely mirror the statutory requirements. Cut and paste from the statute (598.1 Iowa Code), or simply reference the statute. If it is necessary to make a change from the statutory provisions, provide a specific point in time or specific event at which support ends, and leave the remainder to the statute.

While it's helpful to address support in all orders addressing custody, it's not required. If information necessary to make support determinations is lacking, the Court can always state so, and reserve the issues of child support and medical support to any interested party.

Under 252A.6 Iowa Code, support orders can run concurrently, with neither superseding the other, and payment of the higher amount satisfying the lower.

Order child support in shared and split physical care custody cases by setting forth each parent's respective child support obligation, and then offsetting the obligations as a manner of payment. The offset is not a means of arriving at a parent's final support obligation; it is only a means of payment to prevent the parents from having to exchange checks. Do not just order that "well, since each parent has the child(ren) an equal amount of time, nobody has to pay nobody nothing." If you want to reach that result, set forth the obligations, specify the offset, then deviate from the offset amount to be remitted.

When imputing income, set out the reasons for the imputation, and make the required findings, perhaps something such as "Based on past earnings and work history, and the availability of employment in this area, So-n-So has an earning capacity equivalent to \$X per hour full-time, and the same shall be imputed to So-n-So. Each parent has a duty to support their children within their means and abilities. This imputation is necessary to avoid shifting that duty to another party, and is reasonable and appropriate to do justice between the parents while providing for the needs of the children."

When deviating from the Guideline result, set out the reasons for the deviation, the resulting 'harm' or injustice if there is no deviation, and the required findings, perhaps something such as "Such-n-Such's request to deviate downward from the Guideline result from \$Y to \$Z is approved because Such-n-Such bears all travel expenses for visitation and pays all of the extensive co-pays for the child's medical treatments, the requested deviation will not negatively impact the child and helps ensure that Such-n-Such may maintain a home for the child at the child's present level, and a deviation is appropriate and necessary to do justice between the parents while providing for the needs of the child."

Don't abate child support during visitation periods. The child still has fixed expenses at the custodial parent's even during visitation. It's better to extrapolate the amount that would be abated by carrying it out over a year's period, and reducing the monthly amount accordingly (if support would be abated for one month's visitation, multiply the monthly amount of support by eleven months, divide that figure by twelve months, and use the result as the new monthly amount – make sure the deviation is accordingly set forth).

Overcoming Paternity

Paternity may be overcome under either Section 598.21E Iowa Code (during a dissolution of marriage) or under Section 600B.41A Iowa Code (if paternity was already established, and the parents are either not married, or did not address paternity in a divorce). Generally, paternity must have been established in Iowa, as the Court may not disturb paternity established by the order of a tribunal of another state (I read this as either an administrative tribunal or a court); however, the statute does not seem to prohibit overcoming paternity established by operation of law or the execution of a paternity affidavit.

Section 598.21E Generally:

Takes place during a dissolution of marriage proceeding.

Paternity is established by the Child being born or conceived during the marriage

The Child has now been born, and is under age 18.

Husband and Wife both agree that Husband is not the biological father of the Child.

Husband and Wife make sworn statement that Husband is not the biological father of the Child.

Guardian Ad Litem is appointed.

Guardian Ad Litem makes recommendation regarding overcoming Husband's paternity of the Child.

Court makes determination as to whether overcoming Husband's paternity is in Child's best interest.

Court specifically states whether paternity is overcome.

If a separate order for support exists, Court rules whether unpaid support is satisfied.

Section 598.21E Draft Findings:

WIFE and HUSBAND, being first duly sworn or upon oath or affirmation, state and agree that HUSBAND is not the biological father of the minor child _____ (born in YYYY; the "Child"), who was born during the parties' marriage.

WIFE and HUSBAND agree that the presumption that HUSBAND is the father of the Child should be overcome, and ask the Court to approve the agreement pursuant to §598.21E(1)(a) and §600B.41A Iowa Code.

Appointment of Attorney _____ as guardian *ad litem* is approved. The guardian *ad litem* reports that it is in the Child's best interest that HUSBAND's paternity be overcome so that paternity of the Child's biological father may be established.

[if and to the extent applicable] The guardian *ad litem* further reports that HUSBAND has never had any actual parent-child relationship with the Child, and that HUSBAND states that he does not wish to develop a parent-child relationship with the CHILD

WIFE and HUSBAND agree with the guardian *ad litem*'s report.

[if applicable and known] WIFE states that _____ is the biological father of the Child.

Section 598.21E Draft Conclusions:

It is in the Child's best interest that HUSBAND's paternity be overcome so that paternity of the Child's biological father may be established. The presumption that HUSBAND is the father of the Child _____ (born in YYYY) should be overcome pursuant to §598.21E(1)(a) and §600B.41A Iowa Code.

Section 598.21E Draft Decree Provisions:

ORDERED, ADJUDGED, and DECREED that pursuant to §598.21E(1)(a) and §600B.41A Iowa Code, HUSBAND's paternity of the Child _____ (born in YYYY) is overcome. [if applicable] Any unpaid support attributable to the Child which is owed by HUSBAND is satisfied and waived.

Section 600B.41A Generally:

Paternity is already established by operation of law, execution of affidavit, or order.

Petition filed by established father, or the mother, or someone for the child, or the child (if the child is between ages 18 and 19).

All necessary parties served (established father, mother, guardian of child, etc.).

State may be a necessary party if providing Chapter 252B Iowa Code services (this means either establishment or enforcement services, or is providing assistance for the child).

Guardian Ad Litem appointed.

Genetic testing (established father, mother, child) is completed in accordance with Chapter 600B Iowa Code, and results filed.

Guardian Ad Litem makes recommendation regarding overcoming established father's paternity of the child.

Court makes determination as to whether overcoming established father's paternity is in child's best interest.

Court specifically states whether paternity is overcome.

If a separate order for support exists, Court rules whether unpaid support is satisfied.

Section 600B.41A Draft Findings:

ESTABLISHED FATHER's paternity of the minor child _____ (born in YYYY; the "Child") was established by the [Child being born or conceived during ESTABLISHED FATHER's marriage to MOTHER] [ESTABLISHED FATHER's and MOTHER's joint execution of a paternity affidavit] [entry of an order dated DATE in COUNTYNAME County Docket Number _____].

ESTABLISHED FATHER seeks to overcome the presumption that he is the biological father of the minor child _____ (born in YYYY; the "Child").

Genetic paternity testing, performed in compliance with §600B.41 Iowa Code, has been conducted; the results of this genetic paternity testing have been filed herein and exclude ESTABLISHED FATHER as the biological father of the Child by showing a 0% probability of paternity.

Appointment of Attorney _____ as guardian *ad litem* is approved. The guardian *ad litem* reports that it is in the Child's best interest that ESTABLISHED FATHER's paternity be overcome so that paternity of the Child's biological father may be established.

[if and to the extent applicable] The guardian *ad litem* further reports that ESTABLISHED FATHER has never had any actual parent-child relationship with the Child, and that ESTABLISHED FATHER states that he does not wish to develop a parent-child relationship with the CHILD

[if and to the extent applicable] ESTABLISHED FATHER and MOTHER agree with the guardian *ad litem*'s report.

[if applicable and known] WIFE states that _____ is the biological father of the Child.

Section 600B.41A Draft Conclusions:

Pursuant to §600B.41A Iowa Code, the presumption that ESTABLISHED FATHER is the father of the Child _____ (born in YYYY) should be overcome.

Section 600B.41A Draft Order Provisions:

And the Court ORDERS that pursuant to §600B.41A Iowa Code, the presumption that ESTABLISHED FATHER is the father of the Child _____ (born in YYYY) is overcome. [if applicable] Any unpaid support attributable to the Child which is owed by ESTABLISHED FATHER is satisfied and waived.

Stipulation Language

NOW, on the below date, the appearing parties stipulate and agree to the entry of an order containing the following findings, terms, and provisions, and to submit this stipulation to the Court for approval:

- 1. Appearing Parties:** The following necessary parties appeared:
 - A.** Petitioner MOM FULLNAME (“MOM”) appeared personally and pro se by signing below.
 - B.** Respondent LEGAL-DAD FULLNAME (“LEGAL DAD”) appeared personally and pro se by signing below.
 - C.** Necessary Third Party BIO-DAD FULLNAME (“BIO-DAD”) appeared personally and pro se by signing below, and requests to be added to this action for the sole purpose of addressing paternity issues of the minor child herein, pursuant to §252A.3(10)(b) Iowa Code and §600B.41A Iowa Code.
- 2. Child Affected:** The child whose welfare will be affected by these proceedings is XXX (born in 20XX; “XXX”); pursuant to Rule 1.422 Iowa Rules of Civil Procedure, only the child’s initials and birth year are disclosed herein.
- 3. Paternity:** A Section 600B.41A Iowa Code action to overcome XXX’s paternity is pending herein.
 - A.** Because XXX were conceived and born during the marriage between MOM and LEGAL-DAD, LEGAL-DAD’s paternity of XXX is established.
 - B.** Genetic paternity testing has been conducted herein, the results of which have been reviewed by the appearing parties, and provided to the guardian ad litem appointed herein.
 - C.** The results of the genetic paternity testing exclude LEGAL-DAD as XXX’s biological father, and which demonstrate BIO-DAD’s paternity of XXX to a likelihood in excess of 99.99%.
 - D.** LEGAL-DAD and MOM both deny LEGAL-DAD’s paternity of XXX by stating that LEGAL-DAD is not XXX’s biological father.
 - E.** BIO-DAD admits his paternity of XXX, and MOM concurs with BIO-DAD’s statement that BIO-DAD is XXX’s biological father.
 - F.** Pursuant to Section 600B.41A Iowa Code, LEGAL-DAD’s paternity of XXX is overcome.
 - G.** Pursuant to §252A.3(10)(b) Iowa Code, and Chapter 600B Iowa Code, BIO-DAD’s paternity of XXX is established.
 - H.** An order approving this stipulation shall be final for the purposes of XXX’s paternity.
- 4.** MOM shall coordinate with the clerk of court to prepare the necessary statistical abstract for submission to the Bureau of Vital Statistics.

GAL Report

The guardian ad litem reports:

The genetic paternity testing results have been received and reviewed.

LEGAL-DAD has never had any actual parent-child relationship with XXX.

LEGAL-DAD does not wish to develop a parent-child relationship with XXX.

LEGAL-DAD wishes to overcome LEGAL-DAD's paternity of XXX.

BIO-DAD has a parent-child relationship with XXX.

BIO-DAD resides with MOM and XXX in a jointly established family home.

BIO-DAD wishes to establish BIO-DAD's paternity of XXX.

MOM agrees that LEGAL-DAD's paternity of XXX should be overcome, and that BIO-DAD's paternity of XXX should be established.

The guardian ad litem concludes and reports that it is in XXX's best interests that LEGAL-DAD's paternity of XXX be overcome, and that BIO-DAD's paternity of XXX be established.

Approval Order

NOW on this date, these matters come before the Court for review and approval of a stipulation executed by the appearing parties. Upon reviewing the record and being advised in the premises, the Court

FINDS AND ORDERS:

1. The stipulation was filed on MONTH XX, 20XX; a guardian ad litem's report was filed on MONTH XX, 20XX

2. BIO-DAD FULLNAME is added to these matters as a necessary third party.

3. The findings, terms, and provisions of the stipulation, and the findings, conclusions, and report of the guardian ad litem, are **APPROVED**, incorporated into this Order Approving Stipulation as if fully set forth herein, and ordered into effect.

4. Pursuant to Section 600B.41A Iowa Code, LEGAL-DAD FULLNAME's paternity of XXX is overcome.

5. Pursuant to §252A.3(10)(b) Iowa Code, and Chapter 600B Iowa Code, BIO-DAD FULLNAME's paternity of XXX is established.

6. MOM FULLNAME shall coordinate with the clerk of court to prepare the necessary statistical abstract for submission to the Bureau of Vital Statistics.

Sample Language for Ordering Genetic Paternity Testing

Page 1 – This page.

Page 2 – Testing where paternity is not yet established. The action in which the testing is being ordered involves establishing paternity in an alleged father, and genetic paternity testing is needed to either confirm the alleged father's paternity, or to exclude the alleged father.

Page 3 and 4 – Testing where paternity is already established. The action in which the testing is being ordered involves an attempt to overcome (sometimes called 'disestablishing') the paternity of an already established father, and genetic paternity testing is needed to exclude the alleged father.

Notes: Paternity can be created by any of several methods:

- Operation of law, when the child was conceived or born during a marriage (paternity in husband, or, in a same sex marriage, parental responsibility in the non-birthing spouse)
- Execution by the parents of a paternity affidavit.
- Court or Administrative Order.
- In court statement by father, and concurrence of mother.

AF = Alleged Father (sometimes called a putative father)

EF = Established Father

M = Mother

Red texted items require editing (consider using the 'search and replace' function, for example, search for **AF-FirstName** and replace with **John**).

When editing is complete, change all **red text** to black.

Testing Where Paternity Is Not Yet Established

1. Genetic testing is authorized pursuant to Chapter 600B Iowa Code, and the following persons shall participate in genetic testing for the purposes of determining paternity: **AF-FullName** (“**AF-FirstName**”) as the alleged father; **M-FullName** (“**M-FirstName**”), mother of the minor child(ren) herein, and **Child(ren)'s Initials(s)** (born in **20XX**) (pursuant to Rule 1.442 Iowa Rules of Civil Procedure, only the child’s initials and birth year are disclosed; “the Child(ren)”).
2. **Testing Facility Name** (“Expert”) is appointed as the expert and the testing facility; **Alternate Testing Facility Name** is appointed as the alternate expert.
3. **Party Requesting Testing Name** shall coordinate with the Expert and the testing facility for the scheduling of specimen drawing or sampling, and testing, and shall make any pre-payments of fees required by the expert. The Expert shall specify a location, and date and time, at which each party shall appear for the purpose of having specimens drawn or samples taken. Any person who is the physical caretaker for the Child(ren) shall present the Child(ren) for specimen drawing or sampling as directed by the Expert.
4. **AF-FirstName** and **M-FirstName** shall each appear at the specified location with a state-issued driver's license or other piece of state-issued photo identification; further, **AF-FirstName** and **M-FirstName** shall each comply with any specified procedure for identification, including, but not limited to, fingerprinting and photographs.
5. Using appropriate procedures, the specimens or samples shall be subjected to comprehensive genetic testing of inherited characteristics, and to analysis and interpretation of the testing results.
6. Verified documentation of the chain of custody of the specimen or samples shall be competent evidence to establish the chain of custody.
7. The testing facility is directed to prepare a verified report of the analysis and interpretation of genetic testing results, mail copies of the report to all *pro se* parties and any attorneys of record, and forward the original copy of the test report to the Clerk of Court herein.
8. A verified report shall be admitted at trial, and the testimony of the Expert shall not be required. Test results showing a statistical probability of paternity shall be admissible. Test results showing a probability of paternity of ninety-five percent or higher establish a rebuttable presumption of paternity. Test results that do not exclude **AF-FirstName**, and that show a probability of paternity of less than ninety-five percent, shall be weighed along with other evidence.
9. To challenge the test results, a party must file a notice of the challenge with the Court within twenty days of the filing of the Expert's report with the Clerk of Court.
10. Genetic testing is a form of discovery and if **AF-FirstName**, **M-FirstName**, or any physical caretaker of the Child(ren) fails to abide by this order, including the payment or prepayment of any required testing fees, he or she is subject to discovery sanctions.

Testing Where Paternity Is Already Established

1. Genetic testing is authorized pursuant to Chapter 600B Iowa Code, and the following persons shall participate in genetic testing for the purposes of determining paternity: **EF-FullName** (“**EF-FirstName**”) as the established father; **M-FullName** (“**M-FirstName**”), mother of the minor child(ren) herein, and **Child(ren)'s Initials(s)** (born in **20XX**) (pursuant to Rule 1.442 Iowa Rules of Civil Procedure, only the child’s initials and birth year are disclosed; “the Child(ren)”).
2. **Testing Facility Name** (“Expert”) is appointed as the expert and the testing facility; **Alternate Testing Facility Name** is appointed as the alternate expert.
3. **Party Requesting Testing Name** shall coordinate with the Expert and the testing facility for the scheduling of specimen drawing or sampling, and testing, and shall make any pre-payments of fees required by the expert. The Expert shall specify a location, and date and time, at which each party shall appear for the purpose of having specimens drawn or samples taken. Any person who is the physical caretaker for the Child(ren) shall present the Child(ren) for specimen drawing or sampling as directed by the Expert.
4. **EF-FirstName** and **M-FirstName** shall each appear at the specified location with a state-issued driver's license or other piece of state-issued photo identification; further, **EF-FirstName** and **M-FirstName** shall each comply with any specified procedure for identification, including, but not limited to, fingerprinting and photographs.
5. Using appropriate procedures, the specimens or samples shall be subjected to comprehensive genetic testing of inherited characteristics, and to analysis and interpretation of the testing results.
6. Verified documentation of the chain of custody of the specimen or samples shall be competent evidence to establish the chain of custody.
7. The testing facility is directed to prepare a verified report of the analysis and interpretation of genetic testing results, mail copies of the report to all *pro se* parties and any attorneys of record, and forward the original copy of the test report to the Clerk of Court herein.
8. A verified report shall be admitted at trial, and the testimony of the Expert shall not be required. Test results showing a statistical probability of paternity shall be admissible. Test results showing a probability of paternity of ninety-five percent or higher establish a rebuttable presumption of paternity. Test results that do not exclude **EF-FirstName**, and that show a probability of paternity of less than ninety-five percent, shall be weighed along with other evidence.
9. To challenge the test results, a party must file a notice of the challenge with the Court within twenty days of the filing of the Expert's report with the Clerk of Court.
10. Genetic testing is a form of discovery and if **EF-FirstName**, **M-FirstName**, or any physical caretaker of the Child(ren) fails to abide by this order, including the payment or prepayment of any required testing fees, he or she is subject to discovery sanctions.

11. Appointment of a guardian *ad litem* for the Child(ren) shall be stayed pending the genetic testing results, and shall be ordered if such results indicate that EF-FirstName is excluded as the Child(ren)'s biological father and appointment of a guardian *ad litem* is required by the Iowa Code. However, if genetic testing demonstrates that EF-FirstName is the Child(ren)'s biological father, hearing on the remaining issues herein shall proceed as follows: _____.