

Act No. 18
Public Acts of 1996
Approved by the Governor
February 8, 1996
Filed with the Secretary of State
February 8, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Hart, Geake, Dingell, Hoffman, Gougeon, Shugars, McManus, Stille, Byrum and Emmons

ENROLLED SENATE BILL No. 622

AN ACT to amend sections 4a, 7, 7b, 9, and 10 of Act No. 205 of the Public Acts of 1956, entitled "An act to confer upon circuit courts jurisdiction over proceedings to compel and provide support of children born out of wedlock; to prescribe the procedure for determination of such liability; to authorize agreements providing for furnishing of such support and to provide for the enforcement thereof; and to prescribe penalties for the violation of certain provisions of this act," sections 4a and 7b as added and sections 7 and 10 as amended by Act No. 388 of the Public Acts of 1994 and section 9 as amended by Act No. 296 of the Public Acts of 1982, being sections 722.714a, 722.717, 722.717b, 722.719, and 722.720 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 4a, 7, 7b, 9, and 10 of Act No. 205 of the Public Acts of 1956, sections 4a and 7b as added and sections 7 and 10 as amended by Act No. 388 of the Public Acts of 1994 and section 9 as amended by Act No. 296 of the Public Acts of 1982, being sections 722.714a, 722.717, 722.717b, 722.719, and 722.720 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 4a. The summons or other initial notice to a party in an action under this act shall contain notification that the party's obligation to support the child will be determined and that the party's rights to custody of and parenting time with the child may be determined during the paternity action.

Sec. 7. (1) The court shall enter an order of filiation declaring paternity and providing for the support of the child under 1 or more of the following circumstances:

- (a) The finding of the court or the verdict is against the defendant father.
- (b) The defendant father acknowledges paternity either orally to the court or by filing with the court a written acknowledgment of paternity.
- (c) The defendant father is served with summons and a default judgment is entered against him.

(2) An order of filiation entered under subsection (1) shall specify the sum to be paid weekly or otherwise, until the child reaches the age of 18. Subject to section 7a, the court may also order support for a child after he or she reaches

18 years of age. In addition to providing for the support of the child, the order shall also provide for the payment of the necessary expenses incurred by or for the mother in connection with her confinement, for the funeral expenses if the child has died, for the support of the child prior to the entry of the order of filiation, and for the expenses in connection with the pregnancy of the mother or of the proceedings as the court considers proper. However, if proceedings under this act are commenced after the lapse of more than 6 years from the birth of the child, an amount shall not be awarded for expenses or support that accrued before the date on which the complaint was filed unless 1 or more of the following circumstances exist:

(a) Paternity has been acknowledged by the father in writing in accordance with statutory provisions.

(b) One or more payments were made for support of the child during the 6-year period and proceedings are commenced within 6 years from the date of the most recent payment.

(c) The defendant was out of the state, was avoiding service of process, or threatened or coerced the complainant not to file a proceeding under this act during the 6-year period. The court may award an amount for expenses or support that accrued before the date the complaint was filed if the complaint was filed within a period of time equal to the sum of 6 years and the time that the defendant was out of state, was avoiding service of process, or threatened or coerced the complainant not to file a proceeding under this act.

(3) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

(a) The support amount determined by application of the child support formula.

(b) How the support order deviates from the child support formula.

(c) The value of property or other support awarded instead of the payment of child support, if applicable.

(d) The reasons why application of the child support formula would be unjust or inappropriate in the case.

(4) Subsection (3) does not prohibit the court from entering a support order that is agreed to by the parents and that deviates from the child support formula, if the requirements of subsection (3) are met.

(5) Beginning January 1, 1991, each support order entered by the court shall provide that each parent keep the office of the friend of the court informed of both of the following:

(a) The name and address of the parent's current source of income. As used in this subdivision, "source of income" means that term as defined in section 2 of the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being section 552.602 of the Michigan Compiled Laws.

(b) The health care coverage that is available to the parent as a benefit of employment or that is maintained by the parent; the name of the insurance company, nonprofit health care corporation, or health maintenance organization; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit the parent maintains health care coverage under the policy, certificate, or contract.

(6) For the purposes of this act, "support" may include payment of medical, dental, and other health care expenses, child care expenses, and educational expenses. The court shall require that 1 or both parents obtain or maintain any health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of a child who is the subject of an order of filiation under this section. If a parent is self-employed and maintains health care coverage, the court shall require the parent to obtain or maintain dependent coverage for the benefit of the child, if available at a reasonable cost.

(7) A judgment or order entered under this act providing for the support of a child or payment of expenses in connection with the mother's confinement or pregnancy is enforceable as provided in Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

(8) Upon entry of an order of filiation, the clerk of the court shall collect a fee of \$35.00 from the person against whom the order of filiation is entered. The clerk shall retain \$9.00 of the fee and remit the \$26.00 balance, along with a written report of the order of filiation, to the director of public health. The report shall be on a form prescribed by or in a manner approved by the director of public health. Regardless of whether the fee required by this section is collected, the clerk shall transmit and the department of public health shall receive the report of the order of filiation.

(9) If an order of filiation is abrogated by a later judgment or order of a court, the clerk of the court that entered the order shall immediately communicate that fact to the director of public health on a form prescribed by the director of public health.

(10) Within the time prescribed by court rule, the party, attorney, or agency that secures the signing of an order of filiation shall serve a copy of the order on all parties to the action and file proof of service with the court clerk.

Sec. 7b. If the court makes a determination of paternity and there is no dispute regarding custody, the court shall include in the order of filiation specific provisions for the custody and parenting time of the child as provided in the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled

Laws. If there is a dispute between the parties concerning custody or parenting time, the court shall immediately enter an order that temporarily establishes custody of and parenting time with the child. Pending a hearing on or other resolution of the dispute, the court may also refer the matter to the friend of the court for a report and recommendation as provided in section 5 of the friend of the court act, Act No. 294 of the Public Acts of 1982, being section 552.505 of the Michigan Compiled Laws. In a dispute regarding custody or parenting time, the prosecuting attorney, an attorney appointed by the county, or an attorney appointed by the court under section 4 shall not be required to represent either party regarding that dispute.

Sec. 9. (1) The person so adjudged to be the father of the child may be required to give bond with 1 or more sufficient sureties to the satisfaction of the court, to perform the order of the court, and to indemnify the county that is chargeable with the confinement expenses and with the maintenance of the child. The bond shall be filed with the friend of the court or the clerk of the court. If on the trial he is adjudged not to be the father of the child, the court shall dismiss the complaint; and the judgment of the court is final.

(2) If default is made in the payment of an installment or a part of the installment, mentioned in the bond filed under subsection (1), the judge of the court in which the bond is filed, at the request of the mother, guardian, or any other person interested in the support of the child, shall issue a citation to the principal and sureties in the bond requiring them to appear on a day specified in the citation, and show cause why execution shall not issue against them for the amount of the installment due and unpaid on the bond. The citation shall be served by the sheriff of any county in which the principal or sureties reside or may be found. If the amount due on the installment is not paid on or before the time mentioned for showing cause, the judge shall render judgment in favor of the complainant against the principal and sureties who have been served with the citation, for the amount unpaid on the installment due on the bond. Execution shall issue from the court against the goods and chattels of the person or persons against whom the judgment is rendered for the amount of the judgment and costs to the sheriff of any county in the state where a party to the judgment resides or has property subject to the execution.

(3) The judge, in case of default in the payment, when due, of any installment or any part of the installment or in the condition of the bond, may adjudge the reputed father guilty of contempt of court as provided in sections 31 to 39 of the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.631 to 552.639 of the Michigan Compiled Laws. The commitment of the reputed father under sections 31 to 39 of Act No. 295 of the Public Acts of 1982 does not operate to stay or defeat the obtaining of judgment and the collection of the judgment by execution. The rendition and the enforcement of decree or judgment does not bar or hinder the taking of similar proceedings for subsequent defaults.

(4) If the judge considers it necessary in order to secure the payment or enforcement of the judgment, the judgment shall be made a lien upon such of the real estate of the defendant as the court directs; a certified copy of the judgment shall be made by the clerk of the court and filed and recorded in the office of the register of deeds of the county in which the real estate is located. Upon the recording of the judgment, the judgment becomes a lien on that real estate. Execution and other process may also issue for the enforcement of the judgment as in the case of other judgments in the court, and the provisions of this section, as far as applicable.

(5) In order to make effective the purpose and intention of the bonds required under subsection (1), the court may appoint a receiver of the real and personal property belonging to the judgment debtors with powers not exceeding those customarily exercised by receivers.

Sec. 10. (1) The court has continuing jurisdiction over proceedings brought under this act to increase or decrease the amount fixed by the order of filiation subject to section 7(3) or (4), and to provide for, change, and enforce provisions of the order relating to the custody or support of or parenting time with the child.

(2) Beginning January 1, 1991, each support order modified by the court shall provide that each parent shall keep the office of the friend of the court informed of both of the following:

(a) The name and address of the parent's current source of income. As used in this subdivision, "source of income" means that term as defined in section 2 of the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being section 552.602 of the Michigan Compiled Laws.

(b) The health care coverage that is available to the parent as a benefit of employment or that is maintained by the parent; the name of the insurance company, nonprofit health care corporation, or health maintenance organization; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit the parent maintains health care coverage under the policy, certificate, or contract.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 624 of the 88th Legislature is enacted into law.

Section 3. This amendatory act shall take effect June 1, 1996.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.

