



HOUSE BILL No. 4624

March 16, 1995, Introduced by Reps. McNutt, DeLange, Dalman, Bodem, Randall, Cropsey, London, Hammerstrom, Hill and Baird and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 4 of Act No. 205 of the Public Acts of 1956, entitled "The paternity act," as amended by Act No. 388 of the Public Acts of 1994, being section 722.714 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4 of Act No. 205 of the Public Acts of
2 1956, as amended by Act No. 388 of the Public Acts of 1994, being
3 section 722.714 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 4. (1) An action under this act shall be brought IN
6 THE CIRCUIT COURT by the mother, the father, a child who became
7 18 years of age after August 15, 1984 and before June 2, 1986, or
8 the department of social services as provided in this act.

9 ~~Complaints~~ A COMPLAINT shall be ~~made~~ FILED in the county

1 where the mother or child resides. If both the mother and child
2 reside outside this state, then the complaint shall be ~~made~~
3 FILED in the county where the putative father resides or is
4 found. The fact that the child was conceived or born outside of
5 this state is not a bar to entering a complaint against the puta-
6 tive father.

7 (2) An action is not required to be brought under this act
8 if the child's father acknowledges paternity under section 111 of
9 the revised probate code, Act No. 642 of the Public Acts of 1978,
10 being section 700.111 of the Michigan Compiled Laws, or if the
11 child's paternity is established under the law of another state.

12 (3) An action under this act may be ~~instituted~~ COMMENCED
13 during the pregnancy of the child's mother, at any time before
14 the child reaches 18 years of age, or for a child who became 18
15 years of age after August 15, 1984 and before June 2, 1986,
16 before ~~March 1, 1993~~ JANUARY 1, 1995. This subsection applies
17 regardless of whether the cause of action accrued before June 1,
18 1986 and regardless of whether the cause of action was barred
19 under this subsection before June 1, 1986. A SUMMONS ISSUED
20 UNDER THIS SECTION SHALL BE IN THE FORM THE COURT DETERMINES AND
21 SHALL BE SERVED IN THE SAME MANNER AS IS PROVIDED BY COURT RULES
22 FOR THE SERVICE OF PROCESS IN CIVIL ACTIONS.

23 (4) ~~A complaint under this act shall be filed in the cir-~~
24 ~~cuit court.~~ If the county department of social services of the
25 county in which the complainant mother resides first determines
26 her to be eligible for public assistance or to be without means
27 to employ an attorney; if the department of social services is

1 the complainant; or if the complainant mother or child is
2 receiving services under part D of ~~title~~ TITLE IV of the social
3 security act, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 651 to ~~667~~
4 669, then the prosecuting attorney or an attorney employed by the
5 county pursuant to section 1 of Act No. 15 of the Public Acts of
6 1941, being section 49.71 of the Michigan Compiled Laws, shall
7 represent the complainant mother in initiating and conducting the
8 proceedings under this act. The prosecuting attorney shall uti-
9 lize the child support formula developed under section 19 of the
10 friend of the court act, Act No. 294 of the Public Acts of 1982,
11 being section 552.519 of the Michigan Compiled Laws, as a guide-
12 line in petitioning for child support. A complaint filed under
13 this act by the mother of the child shall be verified by the
14 mother by oath or affirmation.

15 (5) A complainant mother shall charge the person named as
16 defendant with being the father of the child and state the time
17 and place, as near as possible, when and where the mother became
18 pregnant. If the department of social services is the complain-
19 ant, the person named as defendant shall be charged upon informa-
20 tion and belief.

21 (6) Upon the filing of a complaint by the CHILD'S mother,
22 ~~of the child,~~ the court shall issue a summons against the
23 alleged father. Upon the alleged father appearing before the
24 court by virtue of the summons, the court shall proceed with the
25 trial of the case. ~~The summons shall be in the form the court~~
26 ~~determines and shall be served in the same manner as is provided~~
27 ~~by court rules for the service of process in civil actions.~~ If

1 the alleged father does not appear before the court, the court
2 shall enter a default judgment.

3 (7) The father or putative father of a child born out of
4 wedlock may file a complaint in the circuit court in the county
5 in which the child or mother resides or is found. ~~praying for~~
6 ~~the entry of the order of filiation as provided for in section~~
7 ~~7.~~ The mother of ~~the~~ A child WHO IS THE SUBJECT OF AN ACTION
8 BROUGHT UNDER THIS SUBSECTION shall be made a party defendant and
9 notified of the hearing on the complaint by summons. ~~which~~
10 ~~shall be in the form the court determines and shall be served in~~
11 ~~the same manner as is provided by court rules for the service of~~
12 ~~process in civil actions. The court, following the hearing, may~~
13 ~~enter an order of filiation. An order of filiation entered under~~
14 ~~this subsection has the same effect, is subject to the same pro-~~
15 ~~visions, and is enforced in the same manner as an order of filia-~~
16 ~~tion entered on complaint of the mother.~~ IF A CHILD'S MOTHER WAS
17 NOT MARRIED AT THE TIME OF CONCEPTION, THE COURT SHALL NOT DENY
18 STANDING TO A PUTATIVE FATHER SOLELY BECAUSE THE CHILD'S MOTHER
19 WAS MARRIED AT THE TIME OF BIRTH. THE PUTATIVE FATHER MAY REBUT
20 THE PRESUMPTION THAT THE MOTHER'S HUSBAND AT THE TIME OF BIRTH IS
21 THE CHILD'S FATHER BY PLEADING RELEVANT FACTS AND CIRCUMSTANCES
22 INCLUDING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

23 (A) RESULTS OF BLOOD OR TISSUE TYPING DETERMINATIONS
24 DESCRIBED UNDER SECTION 6 SHOW A MORE THAN 80% PROBABILITY THAT
25 THE HUSBAND AT THE TIME OF THE CHILD'S BIRTH IS NOT THE CHILD'S
26 FATHER OR THAT THE PUTATIVE FATHER IS THE CHILD'S FATHER.

1 (B) THE CHILD'S MOTHER WAS MARRIED TO THE PUTATIVE FATHER AT
2 THE TIME OF CONCEPTION.

3 (C) THE MOTHER'S MARRIAGE TO HER HUSBAND AT TIME OF THE
4 CHILD'S BIRTH OCCURRED LESS THAN 7 MONTHS BEFORE THE BIRTH.

5 (D) THE PUTATIVE FATHER HAD THE OPPORTUNITY TO IMPREGNATE
6 THE CHILD'S MOTHER.

7 (8) It is unnecessary in any proceedings under this act com-
8 menced by or against a minor to have a next friend or guardian ad
9 litem appointed for the minor unless required by the circuit
10 judge. A minor may prosecute or defend any proceedings in the
11 same manner and with the same effect as if he or she were of
12 legal age.

13 (9) If a child born out of wedlock is being supported in
14 whole or in part by public assistance, the department of social
15 services may file a complaint on behalf of the child in the cir-
16 cuit court in the county in which the child resides. ~~, praying~~
17 ~~for the entry of the order of filiation, as provided in section~~
18 ~~7.~~ The mother of the child shall be made a party plaintiff and
19 notified of the hearing on the complaint by summons. ~~, which~~
20 ~~shall be in the form the court determines and shall be served in~~
21 ~~the same manner as is provided by court rules for the service of~~
22 ~~process in civil actions. An order of filiation entered under~~
23 ~~this subsection has the same effect, is subject to the same pro-~~
24 ~~visions, and is enforced in the same manner as an order of filia-~~
25 ~~tion entered on complaint of the mother.~~ The complaint made by
26 the department of social services shall be verified by the
27 director of social services, or his or her designated

1 representative, or by the director of the county department of
2 social services, or his or her designated representative, of the
3 county in which an action is brought. The action provided for in
4 this subsection may be taken only after the department has unsuc-
5 cessfully attempted to have the alleged father voluntarily initi-
6 ate legal action to acknowledge paternity.

7 (10) Act No. 107 of the Public Acts of 1986, which added
8 this subsection, does not affect the rights of an indigent
9 defendant in proceedings under this act as established by deci-
10 sions of the courts of this state before June 1, 1986.

11 (11) IF A DETERMINATION OF PATERNITY IS MADE UNDER THIS ACT,
12 THE COURT MAY ENTER AN ORDER OF FILIATION AS PROVIDED IN SECTION
13 7. REGARDLESS OF WHO COMMENCES AN ACTION UNDER THIS ACT, AN
14 ORDER OF FILIATION ENTERED UNDER THIS ACT HAS THE SAME EFFECT, IS
15 SUBJECT TO THE SAME PROVISIONS, AND IS ENFORCED IN THE SAME
16 MANNER AS AN ORDER OF FILIATION ENTERED ON COMPLAINT OF THE
17 MOTHER.