



SENATE BILL No. 622

June 15, 1995, Introduced by Senators HART, GEAKE, DINGELL, HOFFMAN, GOUGEON, SHUGARS, MC MANUS, STILLE, BYRUM and EMMONS and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend sections 4a, 7, 7b, 9, and 10 of Act No. 205 of the Public Acts of 1956, entitled "The paternity 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:

1 Section 1. Sections 4a, 7, 7b, 9, and 10 of Act No. 205 of
2 the Public Acts of 1956, sections 4a and 7b as added and sections
3 7 and 10 as amended by Act No. 388 of the Public Acts of 1994 and
4 section 9 as amended by Act No. 296 of the Public Acts of 1982,
5 being sections 722.714a, 722.717, 722.717b, 722.719, and 722.720
6 of the Michigan Compiled Laws, are amended to read as follows:

1 Sec. 4a. The summons or other initial notice to a party in
2 an action under this act shall contain notification that the
3 party's obligation to support the child will be determined and
4 that the party's rights to custody of and ~~visitation~~ PARENTING
5 TIME with the child may be determined during the paternity
6 action.

7 Sec. 7. (1) The court shall enter an order of filiation
8 declaring paternity and providing for the support of the child
9 under ~~any~~ 1 OR MORE of the following circumstances:

10 (a) The finding of the court or the verdict is against the
11 defendant father.

12 (b) The defendant father acknowledges paternity either
13 orally to the court or by filing with the court a written
14 acknowledgment of paternity.

15 (c) The defendant father is served with summons and a
16 default judgment is entered against him.

17 (2) An order of filiation entered under subsection (1) shall
18 specify the sum to be paid weekly or otherwise, until the child
19 reaches the age of 18. Subject to section 7a, the court may also
20 order support for a child after he or she reaches 18 years of
21 age. In addition to providing for the support of the child, the
22 order shall also provide for the payment of the necessary
23 expenses incurred by or for the mother in connection with her
24 confinement, for the funeral expenses if the child has died, for
25 the support of the child prior to the entry of the order of fili-
26 ation, and for the expenses in connection with the pregnancy of
27 the mother or of the proceedings as the court considers proper.

1 However, if proceedings under this act are commenced after the
2 lapse of more than 6 years from the birth of the child, an amount
3 shall not be awarded for expenses or support that accrued before
4 the date on which the complaint was filed unless ~~any~~ 1 OR MORE
5 of the following circumstances ~~exists~~ EXIST:

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

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

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

20 (3) Except as otherwise provided in this section, the court
21 shall order support in an amount determined by application of the
22 child support formula developed by the state friend of the court
23 bureau. The court may enter an order that deviates from the for-
24 mula if the court determines from the facts of the case that
25 application of the child support formula would be unjust or inap-
26 propriate and sets forth in writing or on the record all of the
27 following:

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

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

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

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

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

13 (5) Beginning January 1, 1991, each support order entered by
14 the court shall provide that each ~~party~~ PARENT keep the office
15 of the friend of the court informed of both of the following:

16 (a) The name and address of ~~his or her~~ THE PARENT'S cur-
17 rent source of income. As used in this subdivision, "source of
18 income" means that term as defined in section 2 of the support
19 and ~~visitation~~ PARENTING TIME enforcement act, Act No. 295 of
20 the Public Acts of 1982, being section 552.602 of the Michigan
21 Compiled Laws.

22 (b) ~~Any~~ THE health care coverage that is available to ~~him~~
23 ~~or her~~ THE PARENT as a benefit of employment or that is main-
24 tained by ~~him or her~~ THE PARENT; the name of the insurance com-
25 pany, ~~health care organization~~ NONPROFIT HEALTH CARE
26 CORPORATION, or health maintenance organization; the policy,
27 certificate, or contract number; and the names and birth dates of

1 the persons for whose benefit ~~he or she~~ THE PARENT maintains
2 health care coverage under the policy, certificate, or contract.

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

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

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

1 shall transmit and the department of public health shall receive
2 the report of the order of filiation.

3 (9) If an order of filiation is abrogated by a later judg-
4 ment or order of a court, the clerk of the court that entered the
5 order shall immediately communicate that fact to the director of
6 public health on a form prescribed by the director of public
7 health.

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

12 Sec. 7b. If the court makes a determination of paternity
13 and there is no dispute regarding custody, the court shall
14 include in the order of filiation specific provisions for the
15 custody and ~~visitation~~ PARENTING TIME of the child as provided
16 in the child custody act of 1970, Act No. 91 of the Public Acts
17 of 1970, being sections 722.21 to 722.29 of the Michigan Compiled
18 Laws. If there is a dispute between the parties concerning cus-
19 tody or ~~visitation~~ PARENTING TIME, the court shall immediately
20 enter an order that temporarily establishes custody ~~and~~
21 ~~visitation~~ of AND PARENTING TIME WITH the child. Pending a
22 hearing on or other resolution of the dispute, the court may also
23 refer the matter to the friend of the court for a report and rec-
24 ommendation as provided in section 5 of the friend of the court
25 act, Act No. 294 of the Public Acts of 1982, being section
26 552.505 of the Michigan Compiled Laws. In a dispute regarding
27 custody or ~~visitation~~ PARENTING TIME, the prosecuting attorney,

1 an attorney appointed by the county, or an attorney appointed by
2 the court under section 4 shall not be required to represent
3 either party regarding that dispute.

4 Sec. 9. (1) The person so adjudged to be the father of the
5 child may be required to give bond with 1 or more sufficient
6 sureties to the satisfaction of the court, to perform the order
7 of the court, and to indemnify the county ~~which~~ THAT is charge-
8 able with the confinement expenses and with the maintenance of
9 the child. The bond shall be filed with the friend of the court
10 or the clerk of the court. If on the trial he is adjudged not to
11 be the father of the child, the court shall dismiss the com-
12 plaint; and the judgment of the court is final.

13 (2) If default is made in the payment of an installment or
14 ~~any~~ A part of the installment, mentioned in the bond filed
15 under subsection (1), the judge of the court in which the bond is
16 filed, at the request of the mother, guardian, or any other
17 person interested in the support of the child, shall issue a
18 citation to the principal and sureties in the bond requiring them
19 to appear on a day specified in the citation, and show cause why
20 execution shall not issue against them for the amount of the
21 installment due and unpaid on the bond. The citation shall be
22 served by the sheriff of any county in which the principal or
23 sureties reside or may be found. If the amount due on the
24 installment is not paid on or before the time mentioned for show-
25 ing cause, the judge shall render judgment in favor of the com-
26 plainant against the principal and sureties who have been served
27 with the citation, for the amount unpaid on the installment due

1 on the bond. Execution shall issue from the court against the
2 goods and chattels of the person or persons against whom the
3 judgment is rendered for the amount of the judgment and costs to
4 the sheriff of any county in the state where ~~the parties~~ A
5 PARTY to the judgment ~~, or either of them, reside~~ RESIDES or
6 ~~have~~ HAS property subject to the execution.

7 (3) The judge, in case of default in the payment, when due,
8 of any installment or any part of the installment or in the con-
9 dition of the bond, may adjudge the reputed father guilty of con-
10 tempt of court as provided in sections 31 to 39 of the support
11 and ~~visitation~~ PARENTING TIME enforcement act, ACT NO. 295 OF
12 THE PUBLIC ACTS OF 1982, BEING SECTIONS 552.631 TO 552.639 OF THE
13 MICHIGAN COMPILED LAWS. The commitment of the reputed father
14 ~~pursuant to~~ UNDER sections 31 to 39 of ~~the support and visita-~~
15 ~~tion enforcement act shall~~ ACT NO. 295 OF THE PUBLIC ACTS OF
16 1982 DOES not operate to stay or defeat the obtaining of judgment
17 and the collection of the judgment by execution. The rendition
18 and the enforcement of decree or judgment ~~shall~~ DOES not ~~be~~
19 ~~construed to~~ bar or hinder the taking of similar proceedings for
20 subsequent defaults.

21 (4) If the judge ~~deems~~ CONSIDERS it necessary in order to
22 secure the payment or enforcement of the judgment, the ~~same~~
23 JUDGMENT shall be made a lien upon such of the real estate of the
24 defendant as the court directs; ~~and~~ a certified copy of the
25 judgment shall be made by the clerk of the court ~~and~~ and filed
26 and recorded in the office of the register of deeds of the county
27 in which the real estate is located. Upon the recording of the

1 judgment, the judgment ~~shall be~~ BECOMES a lien on that real
2 estate. Execution and other process may also issue for the
3 enforcement of the judgment as in THE case of other judgments in
4 the court, and the provisions of this section, as far as
5 applicable.

6 (5) In order to make effective the purpose and intention of
7 the bonds REQUIRED UNDER SUBSECTION (1), the court may appoint a
8 receiver of the real and personal property belonging to the judg-
9 ment debtors with powers not exceeding those customarily exer-
10 cised by receivers.

11 Sec. 10. (1) The court has continuing jurisdiction over
12 proceedings brought under this act to increase or decrease the
13 amount fixed by the order of filiation subject to section 7(3) or
14 (4), and to provide for, change, and enforce provisions of the
15 order relating to the custody ~~, support, or visitation of~~ OR
16 SUPPORT OF OR PARENTING TIME WITH the child.

17 (2) Beginning January 1, 1991, each support order modified
18 by the court shall provide that each ~~party~~ PARENT shall keep
19 the office of the friend of the court informed of both of the
20 following:

21 (a) The name and address of ~~his or her~~ THE PARENT'S cur-
22 rent source of income. As used in this subdivision, "source of
23 income" means that term as defined in section 2 of the support
24 and ~~visitation~~ PARENTING TIME enforcement act, Act No. 295 of
25 the Public Acts of 1982, being section 552.602 of the Michigan
26 Compiled Laws.

1 (b) ~~Any~~ THE health care coverage that is available to the
2 ~~party~~ PARENT as a benefit of employment or that is maintained
3 by the ~~party~~ PARENT; the name of the insurance company, ~~health~~
4 ~~care organization~~ NONPROFIT HEALTH CARE CORPORATION, or health
5 maintenance organization; the policy, certificate, or contract
6 number; and the names and birth dates of the persons for whose
7 benefit the ~~party~~ PARENT maintains health care coverage under
8 the policy, certificate, or contract.

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