



# SENATE BILL No. 749

November 7, 1995, Introduced by Senators GEAKE, V. SMITH, GAST, STEIL, EMMONS and GOUGEON and referred to the Committee on Families, Mental Health and Human Services.

A bill to prescribe procedures for and the contents of acknowledgments of parentage; to state the effects of those acknowledgments; to provide procedures and criteria for revoking acknowledgments; and to prescribe powers and duties of certain state officers and employees.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "acknowledgment of parentage act".

3       Sec. 2. As used in this act:

4       (a) "Acknowledgment" means an acknowledgment of parentage  
5 executed as provided in this act.

6       (b) "Child" means a child conceived and born to a woman who  
7 was not married at the time of conception or the date of birth of  
8 the child, or a child that the circuit court determines was born

1 or conceived during a marriage but is not the issue of that  
2 marriage.

3 (c) "Court" means the circuit court.

4 (d) "Father" means the man who signs an acknowledgment of  
5 parentage of a child.

6 (e) "State registrar" means that term as defined in  
7 section 2805 of the public health code, Act No. 368 of the Public  
8 Acts of 1978, being section 333.2805 of the Michigan Compiled  
9 Laws.

10 Sec. 3. (1) If a child is born out of wedlock, a man is  
11 considered to be the natural father of that child if the man  
12 joins with the mother of the child and acknowledges that child as  
13 his child by completing a form that is an acknowledgment of  
14 parentage.

15 (2) An acknowledgment of parentage form is valid and effec-  
16 tive if signed by the mother and father and those signatures are  
17 notarized by a notary public authorized by the state in which the  
18 acknowledgment is signed. An acknowledgment may be signed any  
19 time during the child's lifetime.

20 (3) The mother and father shall be provided a copy of the  
21 completed acknowledgment at the time of signing.

22 Sec. 4. An acknowledgment signed under this act establishes  
23 paternity, and the acknowledgment may be the basis for court  
24 ordered child support, custody, or visitation without further  
25 adjudication under the paternity act, Act No. 205 of the Public  
26 Acts of 1956, being sections 722.711 to 722.730 of the Michigan  
27 Compiled Laws. The child who is the subject of the

1 acknowledgment shall bear the same relationship to the mother and  
2 the man signing as the father as a child born or conceived during  
3 a marriage and shall have the identical status, rights, and  
4 duties of a child born in lawful wedlock effective from birth.

5       Sec. 5. (1) A completed original acknowledgment of parent-  
6 age shall be filed with the state registrar. Upon receipt of an  
7 acknowledgment, the state registrar shall review the form. If it  
8 appears to be properly completed and notarized, the state regis-  
9 trar shall file the acknowledgment in a central registry in the  
10 office of the state registrar. An acknowledgment filed with the  
11 state registrar shall be maintained as a permanent record in a  
12 manner consistent with section 2876 of the public health code,  
13 Act No. 368 of the Public Acts of 1978, being section 333.2876 of  
14 the Michigan Compiled Laws.

15       (2) The state registrar shall issue a copy of an acknowledg-  
16 ment filed in the central registry under the procedures and upon  
17 payment of the fee prescribed by section 2891 of Act No. 368 of  
18 the Public Acts of 1978, being section 333.2891 of the Michigan  
19 Compiled Laws.

20       (3) Upon filing, the completed acknowledgment form may serve  
21 as a basis for preparation of a new certificate of birth as pro-  
22 vided in section 2831 of Act No. 368 of the Public Acts of 1978,  
23 being section 333.2831 of the Michigan Compiled Laws.

24       Sec. 6. After a mother and father sign an acknowledgment of  
25 parentage, the mother is presumed to have custody of the minor  
26 child unless otherwise determined by the court or otherwise  
27 agreed upon by the parties in writing.

1       Sec. 7. The acknowledgment of parentage form shall include  
2 at least all of the following written notices to the parties:

3       (a) The acknowledgment of parentage is a legal, public  
4 document.

5       (b) Completion of the acknowledgment is voluntary.

6       (c) The mother has custody of the child unless otherwise  
7 determined by the court or agreed by the parties in writing.

8       (d) Either parent may assert a claim in court for visitation  
9 or custody.

10       (e) The parents have a right to notice and a hearing regard-  
11 ing the adoption of the child.

12       (f) Both parents have the responsibility to support the  
13 child and to comply with a court or administrative order for the  
14 child's support.

15       (g) Notice that signing the acknowledgment waives the  
16 following:

17       (i) Blood or genetic tests to determine if the man is the  
18 biological father of the child.

19       (ii) Any right to an attorney, including the prosecuting  
20 attorney or an attorney appointed by the court in the case of  
21 indigency, to represent either party in a court action to deter-  
22 mine if the man is the biological father of the child.

23       (iii) A trial to determine if the man is the biological  
24 father of the child.

25       Sec. 8. The state registrar shall prepare or approve the  
26 form used for acknowledgment of parentage. The form shall  
27 conform as closely as possible to section 7, federal

1 requirements, and the needs of other appropriate state agencies.  
2 The state registrar shall make the form available to the public  
3 through the department of social services, prosecuting attorneys,  
4 and hospitals as provided in section 21532 of the public health  
5 code, Act No. 368 of the Public Acts of 1978, being section  
6 333.21532 of the Michigan Compiled Laws.

7       Sec. 9. In proceedings under this act, the court may  
8 appoint a next friend or guardian ad litem to represent a minor  
9 parent at the court's discretion. A minor parent may sign an  
10 acknowledgment of parentage with the same effect as if he or she  
11 were of legal age.

12       Sec. 10. Except as otherwise provided by law, a mother and  
13 father who sign an acknowledgment that is filed as prescribed by  
14 section 5 are consenting to the general, personal jurisdiction of  
15 the courts of record of this state regarding the issues of the  
16 support, custody, and visitation of the child.

17       Sec. 11. (1) The mother or the man who signed the acknowl-  
18 edgment, the child who is the subject of the acknowledgment, or a  
19 prosecuting attorney may file a claim for revocation of an  
20 acknowledgment of parentage. If filed as an original action, the  
21 claim shall be filed in the circuit court of the county where  
22 either the mother or man resides. If neither of those parties  
23 lives in this state, the claim shall be filed in the county where  
24 the child resides. A claim for revocation may be filed as a  
25 motion in an existing action for child support, custody, or visi-  
26 tation in the county where the action is and all provisions in  
27 this act apply as if it were an original action.

1 (2) A claim for revocation shall be supported by an  
2 affidavit signed by the claimant setting forth facts that consti-  
3 tute 1 of the following:

4 (a) Mistake of fact.

5 (b) Newly discovered evidence that by due diligence could  
6 not have been found before the acknowledgment was signed.

7 (c) Fraud.

8 (d) Misrepresentation or misconduct.

9 (e) Duress in signing the acknowledgment.

10 (3) If the court finds that the affidavit is sufficient, the  
11 court may order blood or genetic tests at the expense of the  
12 claimant, or may take other action the court considers  
13 appropriate. The party filing the claim for revocation has the  
14 burden of proving, by clear and convincing evidence, that the man  
15 is not the father and that, considering the equities of the case,  
16 revocation of the acknowledgment is proper.

17 (4) A copy of the order of revocation shall be forwarded by  
18 the clerk of the court to the state registrar. The state regis-  
19 trar shall vacate the acknowledgment and may amend the birth cer-  
20 tificate as prescribed by the order of revocation.

21 (5) Whether the claim for revocation under this act arises  
22 as an original action or as a motion in another action, the pros-  
23 ecuting attorney, an attorney appointed by the county, or an  
24 attorney appointed by the court is not required to represent  
25 either party regarding the claim for revocation.

26 Sec. 12. This act does not affect the validity of an  
27 acknowledgment signed before the effective date of this act. The

1 procedures for determination of a claim for revocation apply to  
2 all acknowledgments, including those signed before the effective  
3 date of this act.

4       Sec. 13. This act shall take effect October 1, 1996.