

HOUSE BILL No. 5088

August 10, 2005, Introduced by Rep. Lemmons, III and referred to the Committee on Family and Children Services.

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
(MCL 552.601 to 552.650) by adding section 5f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5F. (1) AN INDIVIDUAL MAY FILE A MOTION FOR RELIEF FROM A
2 COURT ORDER THAT STATES THAT THE INDIVIDUAL IS A CHILD'S FATHER OR
3 THAT REQUIRES THE INDIVIDUAL TO PAY CHILD SUPPORT. EXCEPT AS
4 OTHERWISE PROVIDED IN THIS SECTION, THE COURT SHALL VACATE AN ORDER
5 STATING THAT AN INDIVIDUAL IS A CHILD'S FATHER OR TERMINATE A CHILD
6 SUPPORT ORDER IF THE COURT FINDS BOTH OF THE FOLLOWING:

7 (A) THE INDIVIDUAL IS NOT THE CHILD'S ADOPTIVE PARENT.

8 (B) GENETIC TESTING RESULTS ARE ADMITTED INTO EVIDENCE AND THE
9 RESULTS EXCLUDE THE INDIVIDUAL AS THE CHILD'S PARENT.

1 (2) THE COURT SHALL NOT GRANT A MOTION FILED UNDER SUBSECTION
2 (1) IF THE COURT FINDS THAT THE INDIVIDUAL WHO FILED THE MOTION
3 KNEW OF GENETIC TESTING RESULTS THAT EXCLUDED THE INDIVIDUAL AS THE
4 CHILD'S PARENT MORE THAN 6 MONTHS BEFORE THE MOTION WAS FILED AND
5 THE INDIVIDUAL CANNOT SHOW GOOD CAUSE AS TO THE FAILURE TO FILE THE
6 MOTION WITHIN 6 MONTHS AFTER OBTAINING THE TEST RESULTS.

7 (3) THE COURT SHALL NOT GRANT A MOTION UNDER SUBSECTION (1) IF
8 THE COURT FINDS THAT, AFTER AN INDIVIDUAL KNOWS THAT HE IS NOT A
9 CHILD'S BIOLOGICAL PARENT, ANY OF THE FOLLOWING OCCUR:

10 (A) THE INDIVIDUAL ACKNOWLEDGES PATERNITY OF THE CHILD IN
11 WRITING.

12 (B) THE INDIVIDUAL CONSENTS TO HIS NAME BEING ENTERED AS THE
13 CHILD'S BIOLOGICAL FATHER ON THE CHILD'S BIRTH CERTIFICATE.

14 (C) THE INDIVIDUAL IS DETERMINED TO BE THE CHILD'S FATHER IN
15 AN ACTION UNDER THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO
16 722.730.

17 (D) THE STATE REGISTRAR FILES AN ACKNOWLEDGMENT OF PARENTAGE
18 IN WHICH THE INDIVIDUAL DECLARES HIMSELF TO BE THE CHILD'S
19 BIOLOGICAL FATHER.

20 (E) THE INDIVIDUAL OTHERWISE ADMITS THAT HE IS, OR
21 ACKNOWLEDGES HIMSELF AS, THE CHILD'S BIOLOGICAL FATHER.

22 (4) AN INDIVIDUAL SHALL FILE A MOTION UNDER THIS SECTION WITH
23 THE COURT THAT ISSUED THE ORDER FROM WHICH THE MOVING PARTY SEEKS
24 RELIEF.

25 (5) IN A PROCEEDING UNDER THIS SECTION, THE COURT, UPON
26 APPLICATION MADE BY OR ON BEHALF OF EITHER PARTY, OR ON ITS OWN
27 MOTION, SHALL ORDER THE CHILD, THE CHILD'S MOTHER, AND THE

1 INDIVIDUAL FILING THE MOTION UNDER SUBSECTION (1) TO SUBMIT TO
2 GENETIC TESTING WITHIN 30 DAYS AFTER THE ORDER REQUIRING GENETIC
3 TESTING IS ISSUED. GENETIC TESTING UNDER THIS SECTION IS SUBJECT TO
4 THE SAME PROCEDURES AS GENETIC TESTING ORDERED UNDER SECTION 6 OF
5 THE PATERNITY ACT, 1956 PA 205, MCL 722.716.

6 (6) IF THE COURT GRANTS A MOTION UNDER THIS SECTION TO VACATE
7 OR TERMINATE AN ORDER, AND THE MOVING PARTY AND CHILD ARE ALSO THE
8 SUBJECTS OF A PARENTING TIME ORDER, THE COURT SHALL DETERMINE IF
9 THE PARENTING TIME ORDER IS TERMINATED, MODIFIED, OR CONTINUED
10 BASED UPON THE BEST INTERESTS OF THE CHILD. IF THE COURT GRANTS A
11 MOTION UNDER THIS SECTION TO TERMINATE A CHILD SUPPORT ORDER AND AN
12 ARREARAGE EXISTS UNDER THAT ORDER, THE COURT MAY RETROACTIVELY
13 CORRECT THE ARREARAGE.

14 (7) IF THE COURT GRANTS AN INDIVIDUAL'S MOTION UNDER THIS
15 SECTION TO VACATE OR TERMINATE AN ORDER, THE COURT SHALL ORDER THE
16 CHILD'S MOTHER TO REIMBURSE THE INDIVIDUAL FOR ALL CHILD SUPPORT
17 PAYMENTS THAT THE INDIVIDUAL HAS PREVIOUSLY PAID TO HER.

18 (8) IF A MOTION UNDER THIS SECTION IS TO TERMINATE A CHILD
19 SUPPORT ORDER AND THE COURT DOES NOT GRANT THE MOTION, THE COURT
20 SHALL ORDER THE MOVING PARTY TO PAY THE COSTS OF THE ACTION AND
21 EACH OPPOSING PARTY'S REASONABLE ATTORNEY FEES.

22 (9) AS USED IN THIS SECTION, "GENETIC TESTING" MEANS BLOOD OR
23 TISSUE TYPING, OR DNA IDENTIFICATION PROFILING, AS DESCRIBED IN AND
24 PRESCRIBED BY THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO
25 722.730.