

Act No. 28
Public Acts of 2024
Approved by the Governor
April 1, 2024
Filed with the Secretary of State
April 1, 2024
EFFECTIVE DATE: Sine Die
(91st day after final adjournment of the 2024 Regular Session)

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2024**

Introduced by Reps. Conlin, Steckloff, Morgan and O'Neal

ENROLLED HOUSE BILL No. 5211

AN ACT to amend 1956 PA 205, 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,” by amending sections 1, 4, 4b, and 7 (MCL 722.711, 722.714, 722.714b, and 722.717), section 1 as amended by 2000 PA 31, section 4 as amended by 2014 PA 367, section 4b as added by 1994 PA 388, and section 7 as amended by 2014 PA 364, and by adding section 4c.

The People of the State of Michigan enact:

Sec. 1. As used in this act:

(a) “Child born out of wedlock” means a child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.

(b) “Child” means a child born out of wedlock.

(c) “Court” means the circuit court.

(d) “Department” means the department of health and human services.

(e) “Director” means the director of the department.

(f) “DNA identification profile” means the results of the DNA identification profiling of genetic testing material.

(g) “DNA identification profiling” means a validated scientific method of analyzing components of deoxyribonucleic acid molecules in a sample of genetic testing material to identify the pattern of the components’ chemical structure that is unique to the individual.

(h) “Genetic testing material” means a sample of an individual’s blood, saliva, or tissue collected from the individual that is used for genetic paternity testing conducted under this act.

(i) “Mother” means the mother of a child born out of wedlock.

(j) “State disbursement unit” or “SDU” means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(k) “Summary report” means a written summary of the DNA identification profile that includes only the following information:

(i) The court case number, if applicable, the laboratory case number or identification number, and the department case number.

- (ii) The mother's name and race.
- (iii) The child's name.
- (iv) The alleged father's name and race.
- (v) The collection dates and identification numbers of the genetic testing material.
- (vi) The cumulative paternity index.
- (vii) The probability of paternity.
- (viii) The conclusion as to whether the alleged father can or cannot be excluded as the biological father.
- (ix) The name, address, and telephone number of the contracting laboratory.
- (x) The name of the individual certifying the report.

Sec. 4. (1) An action under this act must be brought in the circuit court by the mother, the father, a child who became 18 years of age after August 15, 1984 and before June 2, 1986, or the department as provided in this act. The Michigan court rules for civil actions apply to all proceedings under this act. A complaint must be filed in the county where the mother or child resides. If both the mother and child reside outside of this state, the complaint must be filed in the county where the putative father resides or is found. The fact that the child was conceived or born outside of this state is not a bar to entering a complaint against the putative father.

(2) An action to determine paternity must not be brought under this act if the child's father or other parent acknowledges parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, or if the child's parentage is established under the law of another state.

(3) An action under this act may be commenced during the pregnancy of the child's mother or at any time before the child reaches 18 years of age. For a child who became 18 years of age after August 15, 1984 and before June 2, 1986, an action under this act may be commenced before January 1, 1995. This subsection applies regardless of whether the cause of action accrued before June 1, 1986 and regardless of whether the cause of action was barred under this subsection before June 1, 1986. A summons issued under this section must be in the form the court determines and must be served in the same manner as is provided by court rules for the service of process in civil actions.

(4) If the county department of the county in which the mother or alleged father resides first determines that she or he has physical possession of the child and is eligible for public assistance or without means to employ an attorney; if the department is the complainant; or if the mother, alleged father, or child is receiving services under part D of title IV of the social security act, 42 USC 651 to 669b, the prosecuting attorney must initiate and conduct proceedings under this act. The child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, must be used as a guideline in petitioning for child support. A complaint filed under this act must be verified by oath or affirmation.

(5) The prosecuting attorney and the department may enter into an agreement to transfer the prosecutor's responsibilities under this act to 1 of the following:

- (a) The friend of the court, with the approval of the chief judge of the circuit court.
- (b) An attorney employed or contracted by the county under section 1 of 1941 PA 15, MCL 49.71.
- (c) An attorney employed by or under contract with the department.

(6) A proceeding under this section is conducted on behalf of the state and not as the attorney for any other party.

(7) The party filing the complaint must name the person believed to be the father of the child and state in the complaint the time and place, as near as possible, when and where the mother became pregnant. If the department is the plaintiff, the required facts must be stated upon information and belief.

(8) Upon the filing of a complaint, the court must issue a summons against the named defendant. If the defendant does not file and serve a responsive pleading as required by the court rules, the court may enter a default judgment. Neither party is required to testify before entry of a default judgment in a proceeding under this act.

(9) If, after service of process, the parties fail to consent to an order naming the man as the child's father as provided in this act within the time permitted for a responsive pleading, the department or its designee may file and serve both the mother and the alleged father with a notice requiring that the mother, alleged father, and child appear for genetic paternity testing as provided in section 6.

(10) If the mother, alleged father, or child does not appear for genetic paternity testing as provided in subsection (9), the department or its designee may apply to the court for an order compelling genetic paternity tests as provided in section 6 or may seek other relief as permitted by statute or court rule.

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

(12) If a child born out of wedlock is being supported in whole or in part by public assistance, including medical assistance, the department may file a complaint on behalf of the child in the circuit court in the county in which the child resides. The mother or alleged father of the child must be made a party plaintiff and notified of the hearing on the complaint by summons. The complaint made by the department must be verified by the director of the department, or the director's designated representative, or by the director of the county department of the county in which an action is brought, or the county director's designated representative.

(13) 1986 PA 107, which added this subsection, does not affect the rights of an indigent defendant in proceedings under this act as established by decisions of the courts of this state before June 1, 1986.

(14) If a determination of paternity is made under this act, the court may enter an order of filiation as provided in section 7. Regardless of who commences an action under this act, an order of filiation entered under this act has the same effect, is subject to the same provisions, and is enforced in the same manner as an order of filiation entered on complaint of the mother or father.

Sec. 4b. The establishment of parentage under the law of another state has the same effect and may be used for the same purposes as an acknowledgment of parentage or order of filiation under this act.

Sec. 4c. The parentage of either of the following must not be determined under this act:

(a) A child conceived through the use of assisted reproduction that does not involve surrogacy if the parents of the child may be determined under the assisted reproduction and surrogacy parentage act.

(b) A child conceived under a surrogacy agreement that complies with the assisted reproduction and surrogacy parentage act.

Sec. 7. (1) In an action under this act, the court must 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 determines that the man is the father.

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

(c) The defendant is served with summons and a default judgment is entered against him or her.

(d) Genetic testing under section 6 determines that the man is the father.

(2) An order of filiation entered under subsection (1) must specify the sum to be paid weekly or otherwise, as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, until the child reaches the age of 18. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for a child after the child reaches 18 years of age. In addition to providing for the support of the child, the order must also provide for the payment of the necessary expenses connected to the mother's pregnancy and the birth of the child and for the funeral expenses if the child has died, as determined by the court under section 2. A child support obligation is only retroactive to the date that the paternity complaint was filed unless any of the following circumstances exist:

(a) The defendant was avoiding service of process.

(b) The defendant threatened or coerced through domestic violence or other means the complainant not to file a proceeding under this act.

(c) The defendant otherwise delayed the imposition of a support obligation.

(3) A judgment or order entered under this act providing for the support of a child or payment of expenses connected to the mother's pregnancy or the birth of the child is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

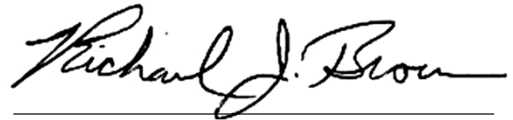
(4) Upon entry of an order of filiation, the clerk of the court must collect a fee of \$9.00 for entering the order and the fee imposed by section 2891(9)(a) of the public health code, 1978 PA 368, MCL 333.2891, from the person against whom the order of filiation is entered. The clerk must retain the \$9.00 fee and remit the fee imposed by section 2891(9)(a) of the public health code, 1978 PA 368, MCL 333.2891, with a written report of the order of filiation, to the department director. The report must be on a form prescribed by or in a manner approved by the department director. Regardless of whether the fees required by this section are collected, the clerk must transmit and the department must receive the report of the order of filiation.

(5) If an order of filiation or acknowledgment of parentage is abrogated by a later judgment or order of a court, the clerk of the court that entered the order must immediately communicate that fact to the department director on a form prescribed by the department director. An order of filiation supersedes an acknowledgment of parentage.

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

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5207 of the 102nd Legislature is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Compiler's note: House Bill No. 5207, referred to in enacting section 2, was filed with the Secretary of State April 1, 2024, and became 2024 PA 24, Eff. (sine die).