

Act No. 244
Public Acts of 1990
Approved by the Governor
October 9, 1990
Filed with the Secretary of State
October 10, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Ciaramitaro, Gubow, Stabenow, Martin, Jondahl, DeMars, Van Regenmorter, Nye and Perry Bullard

ENROLLED HOUSE BILL No. 5649

AN ACT to amend sections 7, 10, and 11 of Act No. 205 of the Public Acts of 1956, 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," section 7 as amended by Act No. 277 of the Public Acts of 1989 and section 10 as amended by Act No. 107 of the Public Acts of 1986, being sections 722.717, 722.720, and 722.721 of the Michigan Compiled Laws; and to add section 7a.

The People of the State of Michigan enact:

Section 1. Sections 7, 10, and 11 of Act No. 205 of the Public Acts of 1956, section 7 as amended by Act No. 277 of the Public Acts of 1989 and section 10 as amended by Act No. 107 of the Public Acts of 1986, being sections 722.717, 722.720, and 722.721 of the Michigan Compiled Laws, are amended and section 7a is added to read as follows:

Sec. 7. (1) If the finding of the court or verdict is against the defendant father, if the defendant father acknowledges paternity either orally to the court or by the filing with the court a written acknowledgment of paternity, or if he is served with summons and a default is entered against him, the court shall enter an order of filiation declaring paternity and providing for the support of the child.

(2) The order of filiation shall specify the sum to be paid weekly or otherwise, until the child reaches the age of 18. Subject to section 7a, the court may also order support for a child after he or she reaches 18 years of age. In addition to providing for the support of the child, the order shall also provide for the payment of the necessary expenses incurred by or for the mother in connection with her confinement, for the funeral expenses if the child has died, for the support of the child prior to the making of the order of filiation, and such expenses in connection with the pregnancy of the mother or of the proceedings as the court considers proper. However, if proceedings under this act are commenced after the lapse of more than 6 years from the birth of the child, an amount shall not be awarded for expenses or support that accrued before the date on which the complaint was filed unless any of the following circumstances exists:

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

(b) A payment was made for support of the child during the 6-year period, and proceedings are commenced within 6 years from the last of any such payments.

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

(3) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

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

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

(c) The value of property or other support awarded in lieu of the payment of child support, if applicable.

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

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

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

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

(7) Upon entry of an order of filiation, the clerk of the court shall transmit to the director of public health on a form prescribed by the director a written notification of the order, together with such other facts as may assist in identifying the birth record of the person whose paternity was in issue. If the order is abrogated by a later judgment or order of the same or a higher court, that fact shall be immediately communicated in writing to the director of public health on a form prescribed by the director by the clerk of the court which entered the order.

Sec. 7a. (1) The court may order support for a child pursuant to section 7 or 11 to provide support after the child reaches 18 years of age as provided in this section.

(2) Beginning on the effective date of this section, the court may order support for the time a child is regularly attending high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate from high school while residing on a full-time basis with the payee of support or at an institution, but in no case after the child reaches 19 years and 6 months of age. A complaint or motion requesting support as provided in this section may be filed at any time before the child reaches 19 years and 6 months of age.

(3) A provision contained in a judgment or an order entered under this act before the effective date of this section that provides for the support of a child after the child reaches 18 years of age, without an agreement of the parties as described in subsection (4), is valid and enforceable to the extent the provision provides support for the child for the time the child is regularly attending high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate from high school while residing on a full-time basis with the payee of support or at an institution, but in no case after the child reaches 19 years and 6 months of age. This subsection shall not require any payment of support for a child after the child reaches 18 years of age for any period between November 8, 1989 and the effective date of this section or reimbursement of support paid between November 8, 1989 and the effective date of this section in those judicial circuits that did not enforce support for a child after the child reached 18 years of age during the period between November 8, 1989 and the effective date of this section.

(4) Notwithstanding subsection (2), a provision contained in a judgment or an order entered under this act before, on, and after the effective date of this section that provides for the support of a child after the child reaches 18 years of age is valid and enforceable if 1 or more of the following apply:

(a) The provision is contained in the judgment or order by agreement of the parties as stated in the judgment or order.

(b) The provision is contained in the judgment or order by agreement of the parties as evidenced by the approval of the substance of the judgment or order by the parties or their attorneys.

(c) The provision is contained in the judgment or order by written agreement signed by the parties.

(d) The provision is contained in the judgment or order by oral agreement of the parties as stated on the record by the parties or their attorneys.

Sec. 10. Until the judgment of the court has been completely satisfied, the court shall have continuing jurisdiction over proceedings brought under this act to increase or decrease the amount fixed by the order of filiation subject to section 7(3) or (4), to provide for reasonable visitation, and to change the custody of the child.

Sec. 11. (a) If a mother of a child born out of wedlock possesses property and fails to support and educate her child, the court having jurisdiction, on application of the guardian or next friend of the child, or the department of social services if the child is being supported in whole or in part by public assistance, may examine into the matter and after a hearing and subject to section 7(3) or (4) may make an order charging the mother with the payment of money weekly or otherwise for the support and education of the child.

(b) The court may require the mother to give security, by bond, with sufficient sureties approved by the court for the payment as directed by the order. In case of default under such bond, the same shall be enforced in like manner as is provided in section 9.

(c) Nothing in this section shall be deemed to relieve the father from liability for support and education of the child in accordance with the provisions of this act.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

- (a) Senate Bill No. 902.
- (b) Senate Bill No. 903.
- (c) Senate Bill No. 904.
- (d) Senate Bill No. 905.
- (e) Senate Bill No. 906.
- (f) House Bill No. 5287.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.