

HOUSE BILL No. 6167

September 30, 1992, Introduced by Reps. Shugars, Walberg, Bartnik, Goss, Bankes, Hoffman, Jaye, Dobb, Hoekman, Dolan, Jamian, London, Middleton, Munsell and Nye and referred to the Committee on Social Services and Youth.

A bill to amend sections 4, 7, and 11 of Act No. 205 of the Public Acts of 1956, entitled

"The paternity act,"

section 4 as amended by Act No. 107 of the Public Acts of 1986, section 7 as amended by Act No. 294 of the Public Acts of 1990, and section 11 as amended by Act No. 244 of the Public Acts of 1990, being sections 722.714, 722.717, and 722.721 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4, 7, and 11 of Act No. 205 of the
2 Public Acts of 1956, section 4 as amended by Act No. 107 of the
3 Public Acts of 1986, section 7 as amended by Act No. 294 of the
4 Public Acts of 1990, and section 11 as amended by Act No. 244 of
5 the Public Acts of 1990, being sections 722.714, 722.717, and

1 722.721 of the Michigan Compiled Laws, are amended to read as
2 follows:

3 Sec. 4. (1) A proceeding in accordance with this act shall
4 be brought by the mother, the father, or the department of social
5 services as provided in this act. Complaints shall be made in
6 the county where the mother and child or 1 of them reside. If
7 both the mother and child reside outside this state, then the
8 complaint shall be made in the county where the putative father
9 resides or is found. The fact that the child was conceived or
10 born outside of this state ~~shall not be~~ IS NOT a bar to enter-
11 ing a complaint against the putative father.

12 (2) Proceedings in pursuance of this act may be instituted
13 during the pregnancy of the mother or at any time before the
14 child reaches 18 years of age. This subsection ~~shall apply~~
15 APPLIES regardless of whether the cause of action accrued before
16 June 1, 1986 and regardless of whether the cause of action was
17 barred under this subsection before June 1, 1986.

18 (3) A complaint under this act shall be filed in the circuit
19 court. If the county department of social services of the county
20 in which the complainant mother resides first determines her to
21 be eligible for public assistance or to be without means to
22 employ an attorney or if the department of social services is the
23 complainant or if the complainant mother or child is receiving
24 services under part D of ~~Title~~ TITLE IV of the social security
25 act, CHAPTER 531, 88 STAT. 2351, 42 U.S.C. 651 to ~~667~~ 669, then
26 the prosecuting attorney or an attorney employed by the county
27 pursuant to section 1 of Act No. 15 of the Public Acts of 1941,

1 as amended, being section 49.71 of the Michigan Compiled Laws,
2 shall represent the complainant mother in initiating and conduct-
3 ing the proceedings under this act. The prosecuting attorney
4 shall utilize the child support formula developed under
5 section 19 of the friend of the court act, Act No. 294 of the
6 Public Acts of 1982, being section 552.519 of the Michigan
7 Compiled Laws, as a guideline in petitioning for child support.
8 A complaint filed under this act by the mother of the child shall
9 be verified by the mother by oath or affirmation.

10 (4) A complainant mother shall charge the person named as
11 defendant with being the father of the child and state the time
12 and place, as near as possible, when and where the mother became
13 pregnant. If the department of social services is the complain-
14 ant, the person named as defendant shall be charged upon informa-
15 tion and belief.

16 (5) Upon the filing of a complaint by the mother of the
17 child, the court shall issue a summons against the alleged
18 father. Upon the alleged father appearing before the court by
19 virtue of the summons, the court ~~thereupon, or as soon thereaf-~~
20 ~~ter as may be,~~ shall proceed with the trial of the case. The
21 summons shall be in such form as the court may determine and
22 shall be served in the same manner as is provided by court rules
23 for the service of process in civil actions.

24 (6) The father or putative father of a child born out of
25 wedlock may file a complaint in the circuit court in the county
26 in which the child or mother resides or is found, praying for the
27 entry of the order of filiation as provided for in section 7.

1 The mother of the child shall be made a party defendant and
2 notified of the hearing on the complaint by summons, which shall
3 be in ~~such form as~~ THE FORM the court ~~shall determine~~
4 DETERMINES and shall be served in the same manner as is provided
5 by court rules for the service of process in civil actions. The
6 court, following the hearing, may enter an order of filiation
7 ~~which~~ THAT shall have the same effect, be subject to the same
8 provisions, and enforced in the same manner as an order of filia-
9 tion would be if entered on complaint of the mother.

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

16 (8) If a child born out of wedlock is being supported in
17 whole or in part by public OR MEDICAL assistance OR IS RECEIVING
18 SERVICES UNDER PART D OF TITLE IV OF THE SOCIAL SECURITY ACT,
19 CHAPTER 531, 88 STAT. 2351, 42 U.S.C. 651 TO 669, the department
20 of social services may file a complaint on behalf of the child in
21 the circuit court in the county in which the child resides, pray-
22 ing for the entry of the order of filiation, as provided in sec-
23 tion 7. The mother of the child shall be made a party plaintiff
24 and notified of the hearing on the complaint by summons, which
25 shall be in ~~such form as~~ THE FORM the court ~~shall determine~~
26 DETERMINES and shall be served in the same manner as is provided
27 by court rules for the service of process in civil actions. An

1 order of filiation entered under this subsection shall have the
2 same effect, be subject to the same provisions, and enforced in
3 the same manner as an order of filiation would be if entered on
4 complaint of the mother. The complaint made by the department of
5 social services shall be verified by the director of social serv-
6 ices, his or her designated representative, or by the director of
7 the county department of social services or his or her designated
8 representative of the county in which an action is brought. The
9 action provided for in this subsection may be taken only after
10 the department has unsuccessfully attempted to have the alleged
11 father voluntarily initiate legal action to acknowledge
12 paternity.

13 (9) The ~~-amendatory act-~~ PROVISIONS OF ACT NO. 107 OF THE
14 PUBLIC ACTS OF 1986, which added this subsection, shall not be
15 construed to affect the rights of an indigent defendant in pro-
16 ceedings under this act as established by decisions of the courts
17 of this state before ~~the effective date of that amendatory act~~
18 JUNE 1, 1986.

19 Sec. 7. (1) If the finding of the court or verdict is
20 against the defendant father, if the defendant father acknowl-
21 edges paternity either orally to the court or by the filing with
22 the court a written acknowledgment of paternity, or if he is
23 served with summons and a default is entered against him, the
24 court shall enter an order of filiation declaring paternity and
25 providing for the support of the child, INCLUDING HEALTH CARE
26 COVERAGE.

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

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

19 (b) A payment was made for support of the child during the
20 6-year period, and proceedings are commenced within 6 years from
21 the last of ~~any such~~ THOSE payments.

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

1 ~~which~~ THAT the defendant was out of state, was avoiding service
2 of process, or threatened or coerced the complainant not to file
3 a proceeding under this act.

4 (3) Except as otherwise provided in this section, the court
5 shall order support in an amount determined by application of the
6 child support formula developed by the state friend of the court
7 bureau. The court may enter an order that deviates from the for-
8 mula if the court determines from the facts of the case that
9 application of the child support formula would be unjust or inap-
10 propriate and sets forth in writing or on the record all of the
11 following:

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

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

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

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

20 (4) Subsection (3) does not prohibit the court from entering
21 a support order that is agreed to by the parties and that devi-
22 ates from the child support formula, if the requirements of sub-
23 section (3) are met.

24 (5) Beginning January 1, 1991, each support order entered by
25 the court shall provide that each party shall keep the office of
26 the friend of the court informed of both of the following:

1 (a) The name and address of his or her current source of
2 income. As used in this subdivision, "source of income" means
3 that term as defined in section 2 of the support and visitation
4 enforcement act, Act No. 295 of the Public Acts of 1982, being
5 section 552.602 of the Michigan Compiled Laws.

6 (b) ~~Any health~~ HEALTH care coverage that is available to
7 him or her as a benefit of employment or that is maintained by
8 him or her; the name of the insurance company, health care orga-
9 nization, or health maintenance organization; the policy, certif-
10 icate, or contract number; and the names and birth dates of the
11 persons for whose benefit he or she maintains health care cover-
12 age under the policy, certificate, or contract.

13 (6) For the purposes of this act, "support" may include pay-
14 ment of the expenses of medical, dental, and other health care,
15 child care expenses, and educational expenses. The court shall
16 require that 1 or both parents shall obtain or maintain any
17 health care coverage that is available to them at a reasonable
18 cost, as a benefit of employment, for the benefit of a child who
19 is the subject of an order of filiation under this section. If a
20 parent is self-employed and maintains health care coverage, the
21 court shall require the parent to obtain or maintain dependent
22 coverage for the benefit of the child, if available at a reason-
23 able cost.

24 (7) A judgment or order entered under this act providing for
25 the support of a child or payment of expenses in connection with
26 the mother's confinement or pregnancy shall ~~be~~ CONTAIN THE
27 PROVISIONS REQUIRED BY, MAY CONTAIN THE PROVISIONS AUTHORIZED BY,

1 AND IS enforceable as provided in the support and visitation
2 enforcement act, Act No. 295 of the Public Acts of 1982, being
3 sections 552.601 to 552.650 of the Michigan Compiled Laws.

4 (8) Upon entry of an order of filiation, the clerk of the
5 court shall transmit to the director of public health on a form
6 prescribed by the director a written notification of the order,
7 together with ~~such~~ other facts ~~as~~ THAT may assist in identi-
8 fying the birth record of the person whose paternity was in
9 issue. If the order is abrogated by a later judgment or order of
10 the same or a higher court, that fact shall be immediately commu-
11 nicated in writing to the director of public health on a form
12 prescribed by the director by the clerk of the court ~~which~~ THAT
13 entered the order.

14 Sec. 11. (1) ~~(a)~~ If a mother of a child born out of wed-
15 lock possesses property and fails to support and educate her
16 child, the court having jurisdiction, on application of the
17 guardian or next friend of the child, or the department of social
18 services if the child is being supported in whole or in part by
19 public OR MEDICAL assistance OR IS RECEIVING SERVICES UNDER PART
20 D OF TITLE IV OF THE SOCIAL SECURITY ACT, CHAPTER 531,
21 88 STAT. 2351, 42 U.S.C. 651 TO 669, may examine into the matter
22 and after a hearing and subject to section 7(3) or (4) may make
23 an order charging the mother with the payment of money weekly or
24 otherwise for the support and education of the child.

25 (2) ~~(b)~~ The court may require the mother to give security,
26 by bond, with sufficient sureties approved by the court for the
27 payment as directed by the order. In case of default under

1 ~~such~~ THE bond, the ~~same~~ BOND shall be enforced in like manner
2 as is provided in section 9.

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