



**House
Legislative
Analysis
Section**

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PATERNITY ACKNOWLEDGEMENT

House Bill 4134 as enrolled
Sponsor: Rep. Jack Horton

House Bill 4140 as enrolled
Sponsor: Rep. Sharon Gire

Second Analysis (2-3-94)
**House Committee: Human Services and
Children**
**Senate Committee: Family Law, Criminal
Law, and Corrections**

THE APPARENT PROBLEM:

As of 1988, 22 percent of all births in Michigan were to unwed mothers; for young mothers age 19 and under, the percentage was 63 percent. In a large urban center such as Detroit, the figures are even more dismaying: 61 percent of all births were to unwed mothers, and 89 percent of births to teenage mothers were out-of-wedlock. Children born out of wedlock are more likely to live in poverty; nationwide, 54 percent of families where children live with never-married mothers have incomes below the poverty line and depend on public assistance, and over half the children receiving Aid to Families with Dependent Children (AFDC) were born out of wedlock. In 1990, Michigan alone had over 40,000 births to unwed mothers.

While getting a father to pay child support can keep a child out of poverty, an essential first step in obtaining a support order for a child born out of wedlock is the establishment of paternity. Although paternity can be established in probate court, the process is time-consuming and expensive, compared to getting the father to acknowledge paternity at the time of birth. To rely on paternity establishment by the court also is a somewhat chancier matter: not surprisingly, the longer the period between the birth of the child and the action to establish paternity, the more difficult, generally, it is to confirm paternity.

Many Michigan hospitals assist parents of children born out of wedlock in signing affidavits to acknowledge paternity as part of the process of registering the birth. However, the service is not always available, and sometimes parents are not fully informed of the consequences of establishing paternity. Such consequences include not only the

father's legal obligation for support, but also his rights to custody and visitation, and the child's rights to inheritance and any social security or military benefits.

What is needed, many say, is legislation to require hospitals to assist in acknowledgement of paternity at birth, to bring uniformity to the process, and to ensure that parents are informed of the rights and responsibilities that accompany the establishment of paternity.

THE CONTENT OF THE BILLS:

House Bill 4140 would amend the Public Health Code (MCL 333.21532) to require a hospital to give an unmarried woman giving birth a form that could be completed by her and the child's father to acknowledge paternity. The hospital would have to provide information on the purpose and completion of the form, and the rights and responsibilities of the parents. The hospital would provide the completed acknowledgement form to the Department of Public Health (DPH) and to the local probate court. Upon being filed in the probate court, the document would establish legal paternity. A hospital would be immune from civil and criminal liability for providing the form or information required by the bill.

The DPH would develop and distribute free of charge to hospitals the paternity acknowledgment form and the information on the purpose and completion of it and on the rights and responsibilities of the parents. The information would have to include information on: parents'

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rights to assert a claim for visitation or custody after acknowledgment of paternity; parents' rights to notice and hearing regarding adoption following acknowledgment of paternity; and the parents' responsibility to comply with child support orders that might be issued following acknowledgment. Both the paternity acknowledgment form and the informational brochure would have to clearly state that completion of the form was voluntary for the mother and the father.

The DPH would have to provide assistance and training to hospital staff assigned responsibility for providing the information, as appropriate.

The bill would take effect six months after it was enacted.

House Bill 4134 would amend the Public Health Code (MCL 333.2824) to, in cases where a child's mother was unmarried, prohibit a father's name from being entered on a birth certificate without the completion and filing of an acknowledgment of paternity form in the probate court.

FISCAL IMPLICATIONS:

The Department of Social Services has estimated that the net cost of printing the hospital information packages and administering the program would be about \$22,270 in general fund money, after federal funding is taken into account. The department notes that the legislation carries with it the potential for indirect savings in Aid to Families with Dependent Children and other programs (such as Medicaid or foster care), to the degree that the bills generated support payments and insurance coverage for children who would otherwise be on public assistance. (2-17-93)

ARGUMENTS:

For:

The establishment of paternity for a child born out of wedlock carries many benefits: it entitles the child to support payments and any benefits (such as insurance coverage, social security, and military benefits) that may accrue through the father, and it extends to the child rights of inheritance. Fathers gain rights to visitation and custody, and the state and society can gain through a reduction in the proportion of children receiving public assistance; if paternity is established and payment of support enforced, some children may as a result be kept out

of poverty. In-hospital establishment of paternity carries special advantages: the child leaves the hospital with two legal parents, and, many believe, improved chances for a family life that involves both parents and their families. Further, early establishment means that a support order can be entered sooner, giving the mother earlier access to child support enforcement services, should she and the child need them. Finally, at the time of birth, the process is cheaper and easier than going to the probate court later. Early on, the father may be more receptive to acknowledging his paternity and accepting its obligations. Later, the relationship with the mother may have deteriorated, and the father may be less willing to confirm his relationship with the child; or, the formality and adversarial nature of court proceedings may intimidate the parties or strain their relationship. The legislation, modeled after a successful program at Butterworth Hospital in Grand Rapids, would encourage the in-hospital establishment of paternity at minimal cost and trouble to hospitals and the state.

Against:

House Bill 4140 would require hospitals to involve themselves in paternity determinations--matters that have no bearing on a hospital's primary purpose to provide patient care, and which may present sensitive legal and emotional issues for the parents. As the situation can be further complicated by staffing and scheduling difficulties, it would be better not to mandate hospital participation.

Response:

Mandatory participation would promote statewide consistency. Any burdens on hospitals would be minimal, as state agencies would provide assistance and informational packets.

For:

Establishment of paternity can mean that a mother must answer a father's unwanted or unjustified challenges for custody and visitation rights. As the legislation proposes to put pressure (even though it may be a small amount of pressure) on a mother (who may be very young) at an emotionally vulnerable time, it becomes especially important that the mother be adequately informed of the consequences of a legal acknowledgment of paternity. House Bill 4140 thus improves on earlier proposals by emphasizing that completing the form is voluntary, and by requiring that information be provided on rights regarding visitation, custody, and adoption.