



# HOUSE BILL No. 4561

March 30, 1993, Introduced by Reps. Walberg, DeMars, Dalman, McBryde, Kaza, Cropsey, Horton, Jaye, Nye, Johnson, Jamian and Hammerstrom and referred to the Committee on Judiciary.

A bill to amend sections 111 and 127 of Act No. 642 of the Public Acts of 1978, entitled as amended "Revised probate code," being sections 700.111 and 700.127 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 111 and 127 of Act No. 642 of the  
2 Public Acts of 1978, being sections 700.111 and 700.127 of the  
3 Michigan Compiled Laws, are amended to read as follows:

4 Sec. 111. (1) For all purposes of intestate succession, a  
5 child is the heir of each of his or her natural parents notwith-  
6 standing the relationship between the parents except as otherwise  
7 provided by section 110.

8 (2) If a child is born or conceived during a marriage, both  
9 spouses are presumed to be the natural parents of the child for

1 all purposes of intestate succession. A child conceived  
2 following artificial insemination of a married woman with the  
3 consent of her husband shall be considered as their child for all  
4 purposes of intestate succession. Consent of the husband is pre-  
5 sumed unless the contrary is shown by clear and convincing  
6 evidence. If a man and a woman participated in a marriage cere-  
7 mony in apparent compliance with the law before the birth of a  
8 child, even though the attempted marriage is void, the child is  
9 considered to be their child for all purposes of intestate  
10 succession.

11 (3) Only the person presumed to be the natural parent of a  
12 child under subsection (2) may disprove any presumption that may  
13 be relevant to the relationship, and this exclusive right to do  
14 so terminates upon the death of the presumed parent.

15 (4) If a child is born out of wedlock or if a child is born  
16 or conceived during a marriage but IS not the issue of that mar-  
17 riage, a man is considered to be the natural father of that child  
18 for all purposes of intestate succession if any of the following  
19 occurs:

20 (a) The man joins with the mother of the child and acknowl-  
21 edges that child as his child in a writing executed and acknowl-  
22 edged by them in the same manner provided by law for the execu-  
23 tion and acknowledgment of deeds of real estate and recorded at  
24 any time during the child's lifetime in the office of the judge  
25 of probate in the county in which the man or mother of the child  
26 reside at the time of execution and acknowledgment. It shall not  
27 be necessary for the mother of the child to join in the

1 acknowledgment if she is disqualified to act by reason of mental  
2 incapacity, death, or any other reason satisfactory to the pro-  
3 bate judge of the county in which the acknowledgment may be  
4 recorded.

5 (b) The man joins with the mother in a written request for a  
6 correction of certificate of birth pertaining to the child  
7 ~~which~~ THAT results in issuance of a substituted certificate  
8 recording the birth of the child.

9 (c) The man and the child have borne a mutually acknowledged  
10 relationship of parent and child ~~which~~ THAT began before the  
11 child became age 18 and continued until terminated by the death  
12 of either.

13 (5) Property of a child born out of wedlock or a child born  
14 or conceived during a marriage but not the issue of that marriage  
15 passes in accordance with the law of intestate succession except  
16 that the father and his kindred shall not be considered as rela-  
17 tives of the child unless the child might have inherited from the  
18 father as provided in this section.

19 (6) If a person is considered or presumed by a provision of  
20 this section to be the natural parent of a child born out of wed-  
21 lock or a child born or conceived during a marriage but not the  
22 issue of that marriage, that child shall bear the same relation-  
23 ship to that person as a child born or conceived during a mar-  
24 riage for all other purposes and shall have the identical status,  
25 rights, and duties of a child born in lawful wedlock effective  
26 from birth.

1 (7) IF A CHILD IS BORN OUT OF WEDLOCK OR IF A CHILD IS BORN  
2 OR CONCEIVED DURING A MARRIAGE BUT IS NOT THE ISSUE OF THAT  
3 MARRIAGE, A MAN IS CONSIDERED TO BE THE NATURAL FATHER OF THAT  
4 CHILD FOR THE PURPOSE OF INTESTATE SUCCESSION IF THE CHILD WAS  
5 CONCEIVED AS A RESULT OF NONCONSENSUAL SEXUAL INTERCOURSE BETWEEN  
6 THE MAN AND THE CHILD'S MOTHER.

7 Sec. 127. (1) If a child is born or adopted after the  
8 making of ~~his~~ THE CHILD'S parent's will and a provision for the  
9 child is not made in the will, that child shall have the same  
10 share in the estate of the testator as if the parent died  
11 intestate. The child's share shall be assigned to the child as  
12 provided by law in case of intestate estates, unless it is appar-  
13 ent from the will that it was the testator's intention not to  
14 make a provision for the child.

15 (2) If a testator fails to provide in ~~his~~ THE TESTATOR'S  
16 will for any of his OR HER children, or for the issue of ~~any~~ A  
17 deceased child, and it appears that the omission was not inten-  
18 tional but was made by mistake or accident, the child, or the  
19 issue of the child, shall have the same share in the estate of  
20 the testator as if ~~he~~ THE TESTATOR had died intestate. The  
21 share shall be assigned as provided in ~~the preceding~~ subsection  
22 (1).

23 (3) IF A TESTATOR FAILS TO PROVIDE IN THE TESTATOR'S WILL  
24 FOR A CHILD WHO WAS CONCEIVED AS A RESULT OF NONCONSENSUAL SEXUAL  
25 INTERCOURSE BETWEEN THE TESTATOR AND THE CHILD'S MOTHER, THE  
26 CHILD SHALL HAVE THE SAME SHARE IN THE ESTATE OF THE TESTATOR AS  
27 IF THE TESTATOR HAD DIED INTESTATE, REGARDLESS OF THE INTENTION

1 OF THE TESTATOR AS SHOWN BY THE WILL OR OTHERWISE. THE SHARE  
2 SHALL BE ASSIGNED AS PROVIDED IN SUBSECTION (1).

3 (4) ~~(3)~~ If a share of the estate of a testator is assigned  
4 to a child born after the making of a will, or to a child ~~—~~ or  
5 the issue of a child omitted in the will, pursuant to subsection  
6 (1), ~~or~~ (2), OR (3), the share shall first be taken from the  
7 estate not disposed of by the will, if any. If the portion of  
8 the estate passing intestate, if any, is not sufficient, so much  
9 as is necessary shall be taken from all the devisees in propor-  
10 tion to the value of the estate ~~which~~ THAT they would have oth-  
11 erwise received respectively under the will, unless the obvious  
12 intention of the testator, in relation to some specific devise or  
13 other provision in the will, would thereby be defeated, in which  
14 event, the specific devise or provision may be exempted from the  
15 apportionment, and a different apportionment may be adopted in  
16 the discretion of the court.