House
Legislative
Analysis
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LET NONBIOLOGICAL FATHERS END CHILD SUPPORT

House Bills 4120 and 4650
Sponsor: Rep. James Koetje
Committee: Judiciary

Complete to 5-23-03

A SUMMARY OF HOUSE BILL 4120 AS INTRODUCED 1-30-03 AND HOUSE BILL 4650 AS INTRODUCED 5-7-03

House Bill 4120 would add a new section to the Support and Parenting Time Enforcement Act (MCL 710.5) to allow a man to file a motion for relief from a court order that stated that he was a child's father or that required him to pay child support, and require the court to order the child, the child's mother, and the man filing the motion to submit to genetic testing. The order for genetic testing could be made by or on behalf of either party, and the man, woman, and child would have to submit to genetic testing (blood or tissue typing, or DNA identification profiling, as described in, and subject to the same procedures as genetic testing ordered under, the Paternity Act) within 30 days after the order was issued. The person filing a motion under the bill would have to file with the court that issued the order from which he sought relief.

Motion granted. Except as otherwise provided in the bill (see below), a court would be required to vacate an order stating that a man was a child's father or to terminate a child support order, if the court found both that the man was not the child's adoptive father and that genetic testing results admitted into evidence excluded the man as the child's biological father. If the court granted a motion under the bill to vacate paternity or terminate a child support order, and if the man filing the motion and the child also were the subjects of a parenting time order, the court would determine if the parenting time order was to be terminated, modified, or continued based on the best interests of the child. If a court granted a motion to terminate a child support order and a child support arrearage existed under the order, the court could retroactively "correct" the arrearage.

Motion denied. The bill would prohibit a court from granting a motion filed under the bill if it found that the individual filing the motion knew of genetic or blood test results that excluded him as the child's father more than six months before the motion was filed, and he could not show good cause why he had not filed the motion within six months after getting the test results. In addition, the bill would prohibit a court from granting such a motion if *after a man knew that he was not a child's biological father*, any of the following five events occurred:

- the man acknowledged paternity of the child in writing;

- he consented to his name being entered as the child's biological father on the child's birth certificate;

- he had been determined to be the child's father in an action under the Paternity Act;

• the state registrar filed an acknowledgement of parentage in which the man declared himself to be the child's biological father; or

• he otherwise admitted that he was, or acknowledged himself as, the child's biological father.

If any of these five events occurred before the man knew that he was not the father—for instance, if a man acknowledged paternity of the child in writing but later came to know that he was not the father—a court would not be prohibited from granting relief from a court order. (In this case the court would be required to grant relief, as long as the court found that the man was not the child's adopted father and that genetic testing results excluding the man from biological fatherhood were admitted into evidence.)

If the court denied a motion to terminate a child support order, the court would be required to order the party making the motion to pay the costs of the action and each opposing party's reasonable attorney fees.

House Bill 4650 would amend the act (MCL 710.603) to specify that a cancellation of child support arrearages as a result of the termination of a support order under the provisions of House Bill 4120 would be considered to be a correction of a mistake and not a retroactive modification of the order. House Bill 4650 could not be enacted unless House Bill 4120 was enacted.

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.