

SENATE BILL No. 1430

June 26, 2008, Introduced by Senators JACOBS and JANSEN and referred to the Committee on Families and Human Services.

A bill to amend 1956 PA 205, entitled
"The paternity act,"
by amending sections 4 and 19a (MCL 722.714 and 722.729a), section
4 as amended by 1998 PA 113 and section 19a as added by 1999 PA
157; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) An action under this act shall be brought in the
2 circuit court by the mother, the father, ~~a child who became 18~~
3 ~~years of age after August 15, 1984 and before June 2, 1986, or the~~
4 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** as provided
5 in this act. The Michigan court rules for civil actions apply to
6 all proceedings under this act. A complaint shall be filed in the
7 county where the mother or child resides. If both the mother and

1 child reside outside of this state, then the complaint shall be
2 filed in the county where the putative father resides or is found.
3 ~~The fact that~~ **THAT** the child was conceived or born outside of this
4 state is not a bar to ~~entering~~ **FILING** a complaint against the
5 putative father.

6 (2) An action to determine paternity shall not be brought
7 under this act if the child's father acknowledges paternity under
8 the acknowledgment of parentage act, **1996 PA 305, MCL 722.1001 TO**
9 **722.1013**, or if the child's paternity is established under the law
10 of another state.

11 (3) An action under this act may be commenced during the
12 pregnancy of the child's mother or at any time before the child
13 reaches 18 years of age. ~~For a child who became 18 years of age~~
14 ~~after August 15, 1984 and before June 2, 1986, an action under this~~
15 ~~act may be commenced before January 1, 1995. This subsection~~
16 ~~applies regardless of whether the cause of action accrued before~~
17 ~~June 1, 1986 and regardless of whether the cause of action was~~
18 ~~barred under this subsection before June 1, 1986. A summons issued~~
19 under this section shall be in the form the court determines and
20 shall be served in the same manner as is provided by court rules
21 for the service of process in civil actions.

22 (4) If the county ~~family independence agency~~ **DEPARTMENT OF**
23 **HUMAN SERVICES** of the county in which the mother or alleged father
24 resides first determines that she or he has physical possession of
25 the child and is eligible for public assistance or without means to
26 employ an attorney; if the ~~family independence agency~~ **DEPARTMENT OF**
27 **HUMAN SERVICES** is the complainant; or if the mother, alleged

1 father, or child is receiving services under part D of title IV of
 2 the social security act, 42 U.S.C.—~~USC~~ 651 to ~~667~~—**669B**, then the
 3 prosecuting attorney or an attorney employed by the county under
 4 section 1 of 1941 PA 15, MCL 49.71, shall initiate and conduct
 5 proceedings under this act. **BY WRITTEN AGREEMENT OF THE CHIEF JUDGE**
 6 **OF THE CIRCUIT COURT, THE PROSECUTING ATTORNEY FOR THE COUNTY, AND**
 7 **THE COUNTY BOARD OF COMMISSIONERS, THE FRIEND OF THE COURT MAY BE**
 8 **DESIGNATED TO PERFORM THE DUTIES DESIGNATED UNDER THIS ACT TO BE**
 9 **PERFORMED BY THE PROSECUTING ATTORNEY. THE AGREEMENT SHALL PROVIDE**
 10 **THAT IF THE CASE BECOMES CONTESTED, THE PROSECUTING ATTORNEY, A**
 11 **DESIGNATED ASSISTANT PROSECUTING ATTORNEY, OR AN ATTORNEY EMPLOYED**
 12 **BY THE COUNTY UNDER SECTION 1 OF 1941 PA 15, MCL 49.71, SHALL**
 13 **PERFORM DUTIES INVOLVING APPEARANCES IN COURT.** The prosecuting
 14 attorney **OR THE FRIEND OF THE COURT** shall utilize the child support
 15 formula developed under section 19 of the friend of the court act,
 16 1982 PA 294, MCL 552.519, as a guideline in petitioning for child
 17 support. A complaint filed under this act shall be verified by oath
 18 or affirmation.

19 (5) The party filing ~~the~~ **A complaint UNDER THIS SECTION** shall
 20 name the person believed to be the father of the child and state in
 21 the complaint the time and place, as near as possible, when and
 22 where the mother became pregnant. If the ~~family independence agency~~
 23 **DEPARTMENT OF HUMAN SERVICES** is the plaintiff, the required facts
 24 shall be stated upon information and belief.

25 (6) Upon the filing of a complaint **UNDER THIS SECTION**, the
 26 court shall issue a summons against the named defendant. If the
 27 defendant does not file and serve a responsive pleading as required

1 by the court rules, the court may enter a default judgment. Neither
2 party is required to testify before entry of a default judgment in
3 a proceeding under this act.

4 (7) If, after service of process, the parties **TO AN ACTION**
5 **UNDER THIS ACT** fail to consent to an order naming the man as the
6 child's father as provided in this act within the time permitted
7 for a responsive pleading, then the ~~family independence agency~~
8 **DEPARTMENT OF HUMAN SERVICES** or its designee may file and serve
9 both the mother and the alleged father with a notice requiring that
10 the mother, alleged father, and child appear for genetic paternity
11 testing as provided in section 6.

12 (8) If the mother, alleged father, or child does not appear
13 for genetic paternity testing as provided in subsection (7), then
14 the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or its
15 designee may apply to the court for an order compelling genetic
16 paternity tests as provided in section 6 or may seek other relief
17 as permitted by statute or court rule.

18 (9) It is unnecessary in any proceedings under this act
19 commenced by or against a minor to have a next friend or guardian
20 ad litem appointed for the minor unless required by the circuit
21 judge. A minor may prosecute or defend any proceedings in the same
22 manner and with the same effect as if he or she were of legal age.

23 (10) If a child born out of wedlock is being supported in
24 whole or in part by public assistance, including medical
25 assistance, the ~~family independence agency~~ **DEPARTMENT OF HUMAN**
26 **SERVICES** may file a complaint **UNDER THIS SECTION** on behalf of the
27 child in the circuit court in the county in which the child

1 resides. The mother or alleged father of the child shall be made a
 2 party plaintiff and notified of the hearing on the complaint by
 3 summons. The complaint made by the ~~family independence agency~~
 4 **DEPARTMENT OF HUMAN SERVICES** shall be verified by the director of
 5 the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES**, or his
 6 or her designated representative, or by the director of the county
 7 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** of the
 8 county in which an action is brought, or the county director's
 9 designated representative.

10 (11) 1986 PA 107, which added this subsection, does not affect
 11 the rights of an indigent defendant in proceedings under this act
 12 as established by decisions of the courts of this state before June
 13 1, 1986.

14 (12) If a determination of paternity is made under this act,
 15 the court may enter an order of filiation as provided in section 7.
 16 Regardless of who commences an action under this act, an order of
 17 filiation entered under this act has the same effect, is subject to
 18 the same provisions, and ~~is~~ **MAY BE** enforced in the same manner as
 19 an order of filiation entered on complaint of the mother or father.

20 Sec. 19a. ~~The department, the SDU, and each office of the~~
 21 ~~friend of the court shall cooperate in the transition to the~~
 22 ~~centralized receipt~~ **THE SDU IS RESPONSIBLE FOR THE COLLECTION** and
 23 disbursement of support. ~~and fees.~~ An office of the friend of the
 24 court shall **MAY** continue to receive ~~and disburse~~ support and fees.
 25 ~~through the transition, based on the schedule developed as required~~
 26 ~~by section 6 of the office of child support act, 1971 PA 174, MCL~~
 27 ~~400.236, and modifications to that schedule as the department~~

1 ~~considers necessary.~~

2 Enacting section 1. Section 19 of the paternity act, 1956 PA
3 205, MCL 722.729, is repealed.

4 Enacting section 2. This amendatory act does not take effect
5 unless Senate Bill No. 1427

6 of the 94th Legislature is enacted into law.