

Act No. 235
Public Acts of 2009
Approved by the Governor
January 8, 2010
Filed with the Secretary of State
January 8, 2010
EFFECTIVE DATE: January 8, 2010

STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009

Introduced by Senators Jacobs and Jansen

ENROLLED SENATE BILL No. 106

AN ACT to amend 1956 PA 205, entitled "An act to confer upon circuit courts jurisdiction over proceedings to compel and provide support of children born out of wedlock; to prescribe the procedure for determination of such liability; to authorize agreements providing for furnishing of such support and to provide for the enforcement thereof; and to prescribe penalties for the violation of certain provisions of this act," by amending sections 2, 7, and 19a (MCL 722.712, 722.717, and 722.729a), section 2 as amended by 2004 PA 253, section 7 as amended by 2004 PA 209, 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:

Sec. 2. (1) The parents of a child born out of wedlock are liable for all of the following:

- (a) The medical expenses connected to the mother's pregnancy.
- (b) The medical expenses connected to the birth of the child.
- (c) The necessary support and education of the child.
- (d) The child's funeral expenses.

(2) Subject to subsection (3), if medicaid has not paid a medical expense described in subsection (1)(a) or (b), on request from a parent, the court in an action brought under this act shall do all of the following:

(a) If the court determines the expense to be reasonable and necessary, apportion the expense between the parents based on each parent's ability to pay and on any other relevant factor, in the same manner as health care expenses of a child are divided under the child support formula established under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519.

(b) In the court's discretion, if 1 parent has paid the expense, require the parent who did not pay the expense to pay his or her share of the expense to the other parent.

(c) In the court's discretion, at the request of a person other than a parent who has paid the expense, order a parent against whom the request is made to pay to the person the parent's share of the expense.

(d) On request from a parent, require an itemized bill for the expense before making an apportionment under this subsection.

(3) Subject to subsection (4), if medicaid has paid a medical expense described in subsection (1)(a) or (b), on request from the office of child support or its designee, the court in an action brought under this act shall do all of the following:

(a) Determine the amount of the expense that is reasonable and necessary by using the actuarially based case rate established and certified by the department of community health or the amount of the expense certified by the department of community health.

(b) Apportion the amount determined under subdivision (a) to the father using the method established under section 3(o) of the office of child support act, 1971 PA 174, MCL 400.233.

(c) Require the father to pay the amount apportioned to the father under subdivision (b) to the medicaid agency through the state disbursement unit.

(d) Not require the mother to pay any of the expenses.

(4) If a pregnancy or a complication of a pregnancy has been determined in another proceeding to have been the result of either a physical or sexual battery by a party to the case, the court shall apportion the medical expenses described in subsection (1)(a) and (b) to the party who was the perpetrator of the battery.

(5) A court order entered under subsection (2) or (3) shall provide that if the father marries the mother after the birth of the child and provides a copy of the marriage license or other documentation of the marriage to the friend of the court, the father's obligation for payment of any unpaid medical expense described in subsection (1)(a) or (b) is abated subject to reinstatement after notice and hearing for good cause shown, including, but not limited to, dissolution of the marriage. An expense abated under this subsection is abated as of the date that documentation of the marriage is provided to the friend of the court.

(6) An order that provides for the payment of a medical expense connected to a mother's pregnancy or a child's birth entered by the court in an action under this act on or before October 1, 2004 shall be considered by operation of law to provide for the abatement of any such medical expense that remains unpaid if the father marries the mother. An abatement under this subsection shall be implemented under the same circumstances and enforced in the same manner as an abatement of expenses under subsection (5).

(7) The court shall admit in proceedings under this act a bill for funeral expenses or for expenses connected to the mother's pregnancy or the birth of the child, or actuarially based case rates as determined by the department of community health, without third party foundation testimony. A bill or case rates admitted under this subsection are prima facie evidence of the relevant funeral or medical expense.

(8) This section does not prohibit the department of community health from seeking reimbursement of expenses from a party or other person, including an insurer, by a legal procedure other than an action under this act.

(9) If the father of a child born out of wedlock dies, an order of filiation or a judicially approved settlement made before his death is enforceable against his estate in the same manner and way as a divorce decree.

(10) As used in this section, "medicaid" means the medical assistance program administered by this state under section 105 of the social welfare act, 1939 PA 280, MCL 400.105.

Sec. 7. (1) In an action under this act, the court shall enter an order of filiation declaring paternity and providing for the support of the child under 1 or more of the following circumstances:

(a) The finding of the court or the verdict determines that the man is the father.

(b) The defendant acknowledges paternity either orally to the court or by filing with the court a written acknowledgment of paternity.

(c) The defendant is served with summons and a default judgment is entered against him or her.

(2) An order of filiation entered under subsection (1) shall specify the sum to be paid weekly or otherwise, as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, until the child reaches the age of 18. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for a child after he or she reaches 18 years of age. In addition to providing for the support of the child, the order shall also provide for the payment of the necessary expenses connected to the mother's pregnancy and the birth of the child and for the funeral expenses if the child has died, as determined by the court under section 2. A child support obligation is only retroactive to the date that the paternity complaint was filed unless any of the following circumstances exist:

(a) The defendant was avoiding service of process.

(b) The defendant threatened or coerced through domestic violence or other means the complainant not to file a proceeding under this act.

(c) The defendant otherwise delayed the imposition of a support obligation.

(3) A judgment or order entered under this act providing for the support of a child or payment of expenses connected to the mother's pregnancy or the birth of the child is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(4) Upon entry of an order of filiation, the clerk of the court shall collect a fee of \$9.00 for entering the order and the fee imposed by section 2891(9)(a) of the public health code, 1978 PA 368, MCL 333.2891, from the person against whom the order of filiation is entered. The clerk shall retain the \$9.00 fee and remit the fee imposed by section 2891(9)(a) of

the public health code, 1978 PA 368, MCL 333.2891, with a written report of the order of filiation, to the director of the department of community health. The report shall be on a form prescribed by or in a manner approved by the director of the department of community health. Regardless of whether the fees required by this section are collected, the clerk shall transmit and the department of community health shall receive the report of the order of filiation.

(5) If an order of filiation or acknowledgment of parentage is abrogated by a later judgment or order of a court, the clerk of the court that entered the order shall immediately communicate that fact to the director of the department of community health on a form prescribed by the director of the department of community health. An order of filiation supersedes an acknowledgment of parentage.

(6) Within the time prescribed by court rule, the party, attorney, or agency that secures the signing of an order of filiation shall serve a copy of the order on all parties to the action and file proof of service with the court clerk.

Sec. 19a. The SDU is responsible for the centralized receipt and disbursement of support. An office of the friend of the court may continue to receive support and fees.

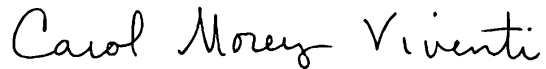
Enacting section 1. Section 19 of the paternity act, 1956 PA 205, MCL 722.729, is repealed.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

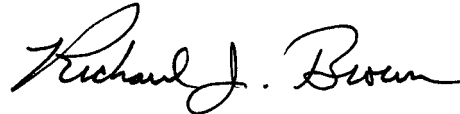
(a) Senate Bill No. 103 or House Bill No. 5504.

(b) Senate Bill No. 104 or House Bill No. 5502.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor

Compiler's note: House Bill No. 5504, referred to in enacting section 2, was filed with the Secretary of State January 8, 2010, and became 2009 PA 239, Imd. Eff. Jan. 8, 2010.

House Bill No. 5502, also referred to in enacting section 2, was filed with the Secretary of State January 8, 2010, and became 2009 PA 238, Imd. Eff. Jan. 8, 2010.