

SENATE BILL No. 106

January 28, 2009, 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 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:

1 Sec. 2. (1) The parents of a child born out of wedlock are
2 liable for ~~the~~ **ALL OF THE FOLLOWING:**

3 **(A) THE MEDICAL EXPENSES CONNECTED TO THE MOTHER'S PREGNANCY.**

4 **(B) THE MEDICAL EXPENSES CONNECTED TO THE BIRTH OF THE CHILD.**

5 **(C) THE** necessary support and education of the child. ~~They are~~

1 ~~also liable for the~~

2 (D) THE child's funeral expenses.

3 (2) Subject to ~~subsections (2) and (3), based~~ **SUBSECTION (3),**
 4 **IF MEDICAID HAS NOT PAID A MEDICAL EXPENSE DESCRIBED IN SUBSECTION**
 5 **(1) (A) OR (B), ON REQUEST FROM A PARENT, THE COURT IN AN ACTION**
 6 **BROUGHT UNDER THIS ACT SHALL DO ALL OF THE FOLLOWING:**

7 (A) IF THE COURT DETERMINES THE EXPENSE TO BE REASONABLE AND
 8 NECESSARY, APPORTION THE EXPENSE BETWEEN THE PARENTS BASED on each
 9 parent's ability to pay and on any other relevant factor, ~~the court~~
 10 ~~may apportion, in the same manner as medical~~ **HEALTH CARE** expenses
 11 of ~~the~~ **A** child are divided under the child support formula, ~~the~~
 12 ~~reasonable and necessary expenses of the mother's confinement and~~
 13 ~~expenses in connection with her pregnancy between the parents and~~
 14 **ESTABLISHED UNDER SECTION 19 OF THE FRIEND OF THE COURT ACT, 1982**
 15 **PA 294, MCL 552.519.**

16 (B) IN THE COURT'S DISCRETION, IF 1 PARENT HAS PAID THE
 17 **EXPENSE**, require the parent who did not pay the expense to pay his
 18 or her share of the expense to the other parent. ~~At~~

19 (C) IN THE COURT'S DISCRETION, AT the request of a person
 20 other than a parent who has paid the ~~expenses of the mother's~~
 21 ~~confinement or expenses in connection with her pregnancy, the court~~
 22 ~~may~~ **EXPENSE**, order a parent against whom the request is made to pay
 23 to the person ~~other than a parent~~ the parent's share of the
 24 ~~expenses~~ **EXPENSE**.

25 (D) ON REQUEST FROM A PARENT, REQUIRE AN ITEMIZED BILL FOR THE
 26 **EXPENSE BEFORE MAKING AN APPORTIONMENT UNDER THIS SUBSECTION.**

27 (3) SUBJECT TO SUBSECTION (4), IF MEDICAID HAS PAID A MEDICAL

1 EXPENSE DESCRIBED IN SUBSECTION (1) (A) OR (B), ON REQUEST FROM THE
2 OFFICE OF CHILD SUPPORT OR ITS DESIGNEE, THE COURT IN AN ACTION
3 BROUGHT UNDER THIS ACT SHALL DO ALL OF THE FOLLOWING:

4 (A) DETERMINE THE AMOUNT OF THE EXPENSE THAT IS REASONABLE AND
5 NECESSARY BY USING THE ACTUARIALLY BASED CASE RATE ESTABLISHED AND
6 CERTIFIED BY THE DEPARTMENT OF COMMUNITY HEALTH OR THE AMOUNT OF
7 THE EXPENSE CERTIFIED BY THE DEPARTMENT OF COMMUNITY HEALTH.

8 (B) APPORTION THE AMOUNT DETERMINED UNDER SUBDIVISION (A) TO
9 THE FATHER USING THE METHOD ESTABLISHED UNDER SECTION 3 (O) OF THE
10 OFFICE OF CHILD SUPPORT ACT, 1971 PA 174, MCL 400.233.

11 (C) REQUIRE THE FATHER TO PAY THE AMOUNT APPORTIONED TO THE
12 FATHER UNDER SUBDIVISION (B) TO THE MEDICAID AGENCY THROUGH THE
13 STATE DISBURSEMENT UNIT.

14 (D) NOT REQUIRE THE MOTHER TO PAY ANY OF THE EXPENSES.

15 (4) ~~(2)~~—If a pregnancy or a complication of a pregnancy has
16 been determined in another proceeding to have been the result of
17 either a physical or sexual battery by a party to the case, the
18 court shall apportion ~~these~~ **THE MEDICAL** expenses **DESCRIBED IN**
19 **SUBSECTION (1) (A) AND (B)** to the party who was the perpetrator of
20 the battery.

21 ~~——(3) If medicaid has paid the confinement and pregnancy~~
22 ~~expenses of a mother under this section, the court shall not~~
23 ~~apportion confinement and pregnancy expenses to the mother. After~~
24 ~~the effective date of the amendatory act that added this~~
25 ~~subsection, based on the father's ability to pay and any other~~
26 ~~relevant factor, the court may apportion not more than 100% of the~~
27 ~~reasonable and necessary confinement and pregnancy costs to the~~

~~1 father. If medicaid has not paid the confinement and pregnancy~~
~~2 expenses of the mother under this section, the court shall require~~
~~3 an itemized bill for the expenses upon request from the father~~
~~4 before an apportionment is made.~~

5 (5) ~~(4) The~~ **A** court order **ENTERED UNDER SUBSECTION (2) OR (3)**
6 shall provide that if the father marries the mother after the birth
7 of the child and provides **A COPY OF THE MARRIAGE LICENSE OR OTHER**
8 documentation of the marriage to the friend of the court, the
9 father's obligation for payment of any ~~remaining-unpaid confinement~~
10 ~~and pregnancy expenses~~ **MEDICAL EXPENSE DESCRIBED IN SUBSECTION**
11 **(1) (A) OR (B)** is abated subject to reinstatement after notice and
12 hearing for good cause shown, including, but not limited to,
13 dissolution of the marriage. ~~The remaining-unpaid amount of the~~
14 ~~confinement and pregnancy expenses owed by the father~~ **AN EXPENSE**
15 **ABATED UNDER THIS SUBSECTION** is abated as of the date that
16 documentation of the marriage is provided to the friend of the
17 court.

18 (6) ~~(5) Each confinement and pregnancy expenses~~ **AN** order **THAT**
19 **PROVIDES FOR THE PAYMENT OF A MEDICAL EXPENSE CONNECTED TO A**
20 **MOTHER'S PREGNANCY OR A CHILD'S BIRTH** entered by the court **IN AN**
21 **ACTION UNDER THIS ACT** on or before ~~the effective date of the~~
22 ~~amendatory act that added this subsection~~ **OCTOBER 1, 2004** shall be
23 considered by operation of law to provide for the abatement of ~~the~~
24 ~~remaining~~ **ANY SUCH MEDICAL EXPENSE THAT REMAINS** unpaid confinement
25 ~~and pregnancy expenses~~ if the father marries the mother. ~~and~~ **AN**
26 **ABATEMENT UNDER THIS SUBSECTION** shall be implemented under the same
27 circumstances and enforced in the same manner as ~~for the~~ **AN**

1 abatement of ~~confinement and pregnancy~~ expenses provided by ~~UNDER~~
 2 subsection ~~(4)~~ **(5)** .

3 **(7)** ~~(6)~~ The court shall admit in proceedings under this act a
 4 bill for funeral expenses ~~, OR FOR expenses of the mother's~~
 5 ~~confinement, or expenses in connection with~~ **CONNECTED TO** the
 6 mother's pregnancy ~~, which bill constitutes prima facie evidence of~~
 7 ~~the amount of those expenses~~ **OR THE BIRTH OF THE CHILD, OR**
 8 **ACTUARIALLY BASED CASE RATES AS DETERMINED BY THE DEPARTMENT OF**
 9 **COMMUNITY HEALTH**, without third party foundation testimony. **A BILL**
 10 **OR CASE RATES ADMITTED UNDER THIS SUBSECTION ARE PRIMA FACIE**
 11 **EVIDENCE OF THE RELEVANT FUNERAL OR MEDICAL EXPENSE.**

12 **(8) THIS SECTION DOES NOT PROHIBIT THE DEPARTMENT OF COMMUNITY**
 13 **HEALTH FROM SEEKING REIMBURSEMENT OF EXPENSES FROM A PARTY OR OTHER**
 14 **PERSON, INCLUDING AN INSURER, BY A LEGAL PROCEDURE OTHER THAN AN**
 15 **ACTION UNDER THIS ACT.**

16 **(9)** ~~(7)~~ If the father **OF A CHILD BORN OUT OF WEDLOCK** dies, an
 17 order of filiation or a judicially approved settlement made before
 18 his death is enforceable against his estate in the same manner and
 19 way as a divorce decree.

20 **(10)** ~~(8)~~ As used in this section, "medicaid" means the medical
 21 assistance program administered by ~~the~~ **THIS** state under section 105
 22 of the social welfare act, 1939 PA 280, MCL 400.105.

23 Sec. 7. (1) ~~The~~ **IN AN ACTION UNDER THIS ACT, THE** court shall
 24 enter an order of filiation declaring paternity and providing for
 25 the support of the child under 1 or more of the following
 26 circumstances:

27 (a) The finding of the court or the verdict determines that

1 the man is the father.

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

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

7 (2) An order of filiation entered under subsection (1) shall
8 specify the sum to be paid weekly or otherwise, as prescribed in
9 section 5 of the support and parenting time enforcement act, 1982
10 PA 295, MCL 552.605, until the child reaches the age of 18. Subject
11 to section 5b of the support and parenting time enforcement act,
12 1982 PA 295, MCL 552.605b, the court may also order support for a
13 child after he or she reaches 18 years of age. In addition to
14 providing for the support of the child, the order shall also
15 provide for the payment of the necessary expenses ~~incurred by or~~
16 ~~for the mother in connection with her confinement and~~ **CONNECTED TO**
17 **THE MOTHER'S** pregnancy **AND THE BIRTH OF THE CHILD** and for the
18 funeral expenses if the child has died, as determined by the court
19 under section 2. A child support obligation is only retroactive to
20 the date that the paternity complaint was filed unless any of the
21 following circumstances exist:

22 (a) The defendant was avoiding service of process.

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

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

1 (3) A judgment or order entered under this act providing for
2 the support of a child or payment of expenses ~~in connection with~~
3 **CONNECTED TO** the mother's ~~confinement or pregnancy~~ **OR THE BIRTH OF**
4 **THE CHILD** is enforceable as provided in the support and parenting
5 time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this
6 act contains a specific provision regarding the contents or
7 enforcement of a support order that conflicts with a provision in
8 the support and parenting time enforcement act, 1982 PA 295, MCL
9 552.601 to 552.650, this act controls in regard to that provision.

10 (4) Upon entry of an order of filiation, the clerk of the
11 court shall collect a fee of \$35.00 from the person against whom
12 the order of filiation is entered. The clerk shall retain \$9.00 of
13 the fee and remit the \$26.00 balance, along with a written report
14 of the order of filiation, to the director of the department of
15 community health. The report shall be on a form prescribed by or in
16 a manner approved by the director of the department of community
17 health. Regardless of whether the fee required by this section is
18 collected, the clerk shall transmit and the department of community
19 health shall receive the report of the order of filiation.

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

27 (6) Within the time prescribed by court rule, the party,

1 attorney, or agency that secures the signing of an order of
2 filiation shall serve a copy of the order on all parties to the
3 action and file proof of service with the court clerk.

4 Sec. 19a. ~~The department, the SDU, and each office of the~~
5 ~~friend of the court shall cooperate in the transition to~~ **SDU IS**
6 **RESPONSIBLE FOR** the centralized receipt and disbursement of
7 support. ~~and fees.~~ An office of the friend of the court shall **MAY**
8 continue to receive ~~and disburse~~ support and fees. ~~through the~~
9 ~~transition, based on the schedule developed as required by section~~
10 ~~6 of the office of child support act, 1971 PA 174, MCL 400.236, and~~
11 ~~modifications to that schedule as the department considers~~
12 ~~necessary.~~

13 Enacting section 1. Section 19 of the paternity act, 1956 PA
14 205, MCL 722.729, is repealed.

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

18 (a) Senate Bill No. 103.

19
20 (b) Senate Bill No. 104.