

RESPONSIBLE FATHER REGISTRY

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House Bill 4659 (Substitute H-1)

Sponsor: Rep. Robert L. Kosowski

Committee: Families, Children, and Seniors

Complete to 6-4-13

A SUMMARY OF HOUSE BILL 4659 AS REPORTED FROM COMMITTEE

The bill would amend the Public Health Code to require the Department of Community Health to administer and maintain a "Responsible Father Registry."

The department would have to provide an online registration process for the registry that would allow a man who believes he may have fathered a child to register. The department would include in the Registry all registrations filed in another state under similar laws of that state and presented to the department for filing. An entry in the Responsible Father Registry would be considered a "vital record" along with a certificate or registration of birth, death, marriage, or divorce, or an acknowledgment of parentage. (According to Department of Community Health, the current basic search fee for a certified copy of a Michigan vital record is \$26.00.)

Generally speaking, a child placing agency or an attorney involved in the proposed adoption would have to give notice of a proceeding for the adoption of a child or the termination of parental rights to a man who had registered in a timely manner. A man who registered in a timely manner would be entitled to notice of any hearing involving the child who was the subject of the registration to determine the father's identity and any hearing to determine or terminate the father's parental rights to that child.

Petitioners for adoption would have to obtain from the DCH a certificate that a search of the registry was performed.

When the department received a record of adoption, it would be required to cross-reference that information with the information on the registry and remove all entries related to the child who is the subject of the adoption record.

With some exceptions, failure to register would waive a man's right to receive the notice to which he would otherwise be entitled and would be a denial of his interest in custody of the child.

The bill specifies that "a man who has engaged in sexual intercourse with a woman is considered to be on legal notice that a child may be conceived and the man is entitled to all legal rights and obligations as a result."

The following are main features of the bill.

Form for Registering with Responsible Father Registry

The department would be required to prepare a form for registering with the registry that requires all of the following:

- The registrant's name, date of birth and Social Security number; the registrant's driver license number and state of issuance; the registrant's home address, telephone number, and employer.
- The name, date of birth, ethnicity, address, and telephone number of the mother, if known.
- The state, city, and place where conception occurred and the approximate date of possible conception.
- The child's place and date of birth, if known and the child's name and gender, if known.
- The registrant's signature. A form for registering is not complete unless signed by the registrant.

Statement on Form about Registration Features

The form would also have to include a statement regarding all of the following:

- Registration in a timely manner entitles the registrant to notice of a proceeding for adoption of the child or termination of the registrant's parental rights.
- Registration does not initiate a proceeding to establish paternity.
- The information disclosed on the form may be used against the registrant to establish paternity.
- Services to assist in establishing paternity are available to the registrant through the department.
- The registrant should also register in another state if conception or the child's birth occurred in another state.
- Information on registries of other states may be available from the department.
- The form is signed under penalty of perjury.

Notification of Adoption & Termination of Rights Proceedings

Generally speaking, a man who desired to be notified of a proceeding for adoption of a child or termination of parental rights regarding a child whom he may have fathered would have to register with the registry before the child's birth or not more than five days, excluding weekends and holidays, after the child's birth. A registrant would have to

promptly notify the registry of any changes in information including changes of address. The department would incorporate all new information received into its records but would not be required to obtain current information for incorporation in the registry.

Notification to Man on Registry (Adoptions/Termination of Rights)

A child placing agency or an attorney involved in the adoption would have to give notice of a proceeding for the adoption of a child or termination of parental rights regarding a child to a registrant who had registered in a timely manner. A man who registers in a timely manner would be entitled to notice of any hearing involving the child who was the subject of the registration to determine the father's identity and any hearing to determine or terminate the father's parental rights to that child.

Failure to Register

Failure to register would waive a man's right to receive the notice to which he was otherwise entitled and would be a denial of his interest in custody of the child. Such denial of interest would result in the court's termination of his parental rights to the child unless the man was led to believe through the birth mother's fraud that the pregnancy was terminated or that the mother miscarried when in fact the baby was born, or that the child died when in fact the child was alive. The man would need to register with the registry within five days, excluding weekends and holidays, after discovering such fraud.

However, a man's parental rights would not be waived by failing to register with the registry if the man established paternity under the Paternity Act (MCL 722.711, et al.) or the Acknowledge of Parentage Act (MCL 722.1001, et al.).

Man's Responsibility to Register

The bill specifies that "a man who has engaged in sexual intercourse with a woman is considered to be on legal notice that a child could be conceived and the man is entitled to all legal rights and obligations as a result." Lack of knowledge of the pregnancy would not excuse failure to register in a timely manner.

In the event that the identity and whereabouts of the putative father or alleged father were reasonably ascertainable, a child placing agency or an attorney involved in the proposed adoption would be required to provide the putative father or alleged father with written notice of the mother's intended release or consent to adoption and the availability of registration with the registry by personal service or by certified mailing return receipt request, with delivery restricted to the addressee to the man's last known address. Personal service or certified mailing could be either before or after the child's birth. If mailing or service was carried out before the child's birth, the man would have not more than five days, excluding weekends and holidays, from the date of the child's birth to register. If mailing or service was carried out after the child's birth, the man would have not more than five days, excluding weekends and holidays, from the date of the personal service or certified mailing to register.

Location of the Mother of the Child

The DCH would not be required to locate the mother of a child who was the subject of registration, but it would be required to send a copy of the notice of registration to the mother if an address was provided. Information contained in the registry would be confidential and could only be released by request to one or more of the following: a registrant; a court of this state, another state or a person designated by the court of this state or another state; the mother of the child; an agency authorized by law to receive the information; a child placing agency of this or another state; a support enforcement agency; a child's guardian ad litem; a party or the party's attorney of record in an adoption, custody, paternity, or termination of parental rights proceeding regarding a child who was the subject of the registration; and a putative father registry in another state.

Information in the registry would be exempt from disclosure under the Freedom of Information Act (MCL 15.231, et al.) An individual who intentionally released information from the registry to an unauthorized individual or agency would be guilty of a misdemeanor.

Certificate of Search for Petitioner for Adoption

If paternity had not been established under the Paternity Act or the Acknowledgment of Parentage Act, a petitioner for adoption would have to obtain from the department a certificate that a search of the registry had been performed. If the child's conception or birth occurred in another state, a petitioner for adoption could obtain a certificate from that state indicating that a search of the putative father registry was performed if that state had a putative father registry.

The department would have to provide to a requester a certificate of search of the registry upon request. The certificate of search would be signed on behalf of the department and would state that a search had been made and either (1) a registration containing the information required to identify the registrant had been found and was attached to the certificate of search or (2) a registration had not been found. Within four business days after receipt of the request the department would have to mail the certificate of search to the requestor by US mail. Upon request and payment of any additional costs by the requestor, the department would have to deliver the certificate of search by overnight mail, in person, by messenger, by facsimile, or by other electronic communication. The department's certificate of search or an appropriate certificate of search from another state would be sufficient proof that the registry was searched.

Under the bill, a certificate of search would have to be filed with the court before a proceeding for adoption of a child out of wedlock and before a proceeding for termination of parental rights regarding a child could be concluded. A certificate of search of the registry would be admissible in a proceeding for adoption of a child or termination of parental rights and, if relevant, in any other legal proceedings.

Online Registration Process & Pamphlet

The department would be required to allow for an online update of information to the registrant. The department would also have to produce and distribute a pamphlet or other publication informing the public about the registry, including all of the following:

- Procedures for registering with the registry.
- The consequences of registering and failure to register in a timely manner.
- A description of the registry, including to whom and under what circumstances the registry applies.
- The time limits and responsibilities for filing.
- Procedures for updating registration information online.

The pamphlet or publication would also need to include a detachable form that met the requirements suitable for the US mail and was addressed to the registry. The pamphlet or publication would have to be made available for distribution at all department and local department offices. The department would also be required to provide the pamphlet to hospitals, libraries, medical clinics, correctional facilities, county or city jails or lock-ups, schools, universities, and other providers of child-related services upon request. The department would have to provide information to the public through public service announcements, or other ways to deliver public information about the registry and its services. The department could discontinue providing information about the registry through public service announcements beginning January 1, 2015.

Registry Fund

The bill would create the Registry Fund within the state treasury. The State Treasurer could receive money or other assets from any source for deposit into the fund, direct assets the investment of the fund and credit to the fund interest and earnings from fund investments. The department would expend money from the fund, upon appropriation, only for the purposes of implementing and administering the provisions in the bill. The department would be the administrator of the fund for auditing purposes. Money in the fund at the close of the fiscal year would remain in the fund and not lapse to the general fund.

FISCAL IMPACT:

Community Health

House Bill 4659 will increase costs for the Michigan Department of Community Health (DCH) to create, operate and maintain a new online, controlled access, confidential and secure database registry, the Responsible Father Registry. The Department will also have costs related to the bill's requirements to:

- notify a woman if a man has registered and indicated her as his partner in a pregnancy.
- respond to information requests from approved parties.
- provide a certificate of search of the registry upon request from approved parties, within four business days.
- produce and distribute a public information pamphlet on the registry and paternity.

An entry in the Responsible Father Registry would be considered a "vital record" along with a certificate or registration of birth, death, marriage, or divorce, or an acknowledgment of parentage. The current basic search fee for a certified copy of a Michigan vital record is \$26.00. Other than that fee, there are no fees established for these services by the bill, and only voluntary deposits to a new Fund. Estimated Department staffing costs for this function could exceed \$50,000-\$100,000 or more depending upon participation and requests, for one partial or full-time position. Costs which exceed fee revenue will need to be absorbed within the existing DCH budget unless additional funding is appropriated.

Treasury

The bill would impose minimal costs of the Department of Treasury for administration of the fund. Any costs to the Department of Treasury would be covered under current appropriation levels.

POSITIONS:

The Family Law Section of the State Bar testified in support of the bill. (5-22-13)

Michigan Catholic Conference supports the bill. (5-22-13)

Michigan Family Forum supports the bill. (5-15-13)

A representative of the Michigan Probate Judges Association testified with concerns about the bill on 5-22-13. That testimony can be found on the House Committees page at:

<https://committee.mihouse.mi.gov/CommitteeDetail.aspx?code=fami>

Department of Community Health State Registrar testified in support of the concept of the registry. (5-15-13)

Michigan National Organization for Women is neutral on the bill. 5-15-13

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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.