

Legislative Analysis



DETERMINING A "GENETIC FATHER" IS NOT A CHILD'S FATHER

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House Bill 5583 (Substitute H-1)
Sponsor: Rep. Marcia Hovey-Wright
Committee: Families, Children, and Seniors

(Enacted as Public Act 376 of 2014)

Complete to 6-10-14

A SUMMARY OF HOUSE BILL 5583 AS REPORTED FROM COMMITTEE

The bill would amend the Revocation of Paternity Act (MCL 722.1433 et al.) by adding Section 8 dealing with an action to determine that a genetic father is not a child's father.

The term "genetic father" is defined as a man whose paternity has been determined solely through genetic testing.

File an Action and Affidavit

Under the bill, the mother, the genetic father, an alleged father, or a prosecuting attorney could file an action for an order determining that a genetic father is not a child's father. An action must be filed within three years after the child's birth or within one year after the date that the genetic father was established as a child's father, whichever is later.

The action would need to be supported by an affidavit signed by the affiant filing the action to state one of the following facts: (a) the genetic tests that established the man as a child's father were inaccurate; (b) the man's genetic material was not available to the child's mother; or (c) a man who has DNA identical to the genetic father is the child's father.

If the court finds that an affidavit is sufficient, it would order blood or tissue typing or DNA identification profiling as required under the act. The person filing the action would have the burden of proving, by clear and convincing evidence, that the genetic father is not the father of the child. The court could order the person filing the action to repay the cost of the genetic test to the state.

Father Reported to State Registrar

If a genetic father has been reported to the State Registrar as a child's father, the clerk of the court would need to forward a copy of an order determining that the genetic father is not a child's father to the registrar. The registrar would be required to remove the genetic father as the child's father and could amend the birth certificate by court.

Court Representation

Whether an action is brought by a complaint in an original action or by a motion in an existing action, the prosecuting attorney, an attorney appointed by the county, or an attorney appointed by the court is not required to represent any party regarding the action.

The bill is tie-barred to House Bills 5463, 5464, and 5465, and would take effect 90 days after being enacted into law.

FISCAL IMPACT:

House Bill 5583 should have a negligible to no fiscal impact on the state and local units of government.

POSITIONS:

Prosecuting Attorneys Association of Michigan testified in support of the bill. (5-21-14)

A representative of 14th Circuit Court/Family Court/Friend of the Court testified in support of the bill. (5-21-14)

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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.