

HOUSE BILL No. 5463

April 23, 2014, Introduced by Rep. Denby and referred to the Committee on Families,
Children, and Seniors.

A bill to amend 1956 PA 205, entitled
"The paternity act,"
by amending sections 6 and 7 (MCL 722.716 and 722.717), section 6
as amended by 2000 PA 31 and section 7 as amended by 2009 PA 235.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) In a proceeding under this act before trial, the
2 court, upon application made by or on behalf of either party, or on
3 its own motion, shall order that the mother, child, and alleged
4 father submit to blood or tissue typing determinations ~~, which~~ **THAT**
5 may include, but are not limited to, determinations of, red cell
6 antigens, red cell isoenzymes, human leukocyte antigens, serum
7 proteins, or DNA identification profiling, to determine whether the
8 alleged father is likely to be, or is not, the father of the child.

1 If the court orders a blood or tissue typing or DNA identification
2 profiling to be conducted and a party refuses to submit to the
3 typing or DNA identification profiling, in addition to any other
4 remedies available, the court may do either of the following:

5 (a) Enter a default judgment at the request of the appropriate
6 party.

7 (b) If a trial is held, allow the disclosure of the fact of
8 the refusal unless good cause is shown for not disclosing the fact
9 of refusal.

10 (2) A blood or tissue typing or DNA identification profiling
11 shall be conducted by a person accredited for paternity
12 determinations by a nationally recognized scientific organization,
13 including, but not limited to, the American association of blood
14 banks.

15 (3) The court shall fix the compensation of an expert at a
16 reasonable amount and may direct the compensation to be paid by the
17 county or by any other party to the case, or by both in the
18 proportions and at the times the court prescribes. Before blood or
19 tissue typing or DNA identification profiling is conducted, the
20 court may order a part or all of the compensation paid in advance.
21 If the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** paid
22 for the genetic testing expenses, the court may order repayment by
23 the alleged father if the court declares paternity. Documentation
24 of the genetic testing expenses is admissible as evidence of the
25 amount, which evidence constitutes prima facie evidence of the
26 amount of those expenses without third party foundation testimony.

27 (4) Subject to subsection (5), the result of blood or tissue

1 typing or a DNA identification profile and the summary report shall
2 be served on the mother and alleged father. The summary report
3 shall be filed with the court. Objection to the DNA identification
4 profile or summary report is waived unless made in writing, setting
5 forth the specific basis for the objection, within 14 calendar days
6 after service on the mother and alleged father. The court shall not
7 schedule a trial on the issue of paternity until after the
8 expiration of the 14-day period. If an objection is not filed, the
9 court shall admit in proceedings under this act the result of the
10 blood or tissue typing or the DNA identification profile and the
11 summary report without requiring foundation testimony or other
12 proof of authenticity or accuracy. If an objection is filed within
13 the 14-day period, on the motion of either party, the court shall
14 hold a hearing to determine the ~~admissibility~~ **ADMISSIBILITY** of the
15 DNA identification profile or summary report. The objecting party
16 has the burden of proving by clear and convincing evidence by a
17 qualified person described in subsection (2) that foundation
18 testimony or other proof of authenticity or accuracy is necessary
19 for admission of the DNA identification profile or summary report.

20 (5) If the probability of paternity determined by the
21 qualified person described in subsection (2) conducting the blood
22 or tissue typing or DNA identification profiling is 99% or higher,
23 and the DNA identification profile and summary report are
24 admissible as provided in subsection (4), paternity is ~~presumed~~.
25 **ESTABLISHED**. If the results of the analysis of genetic testing
26 material from 2 or more persons indicate a probability of paternity
27 greater than 99%, the contracting laboratory shall conduct

1 additional genetic paternity testing until all but 1 of the
2 putative fathers is eliminated, unless the dispute involves 2 or
3 more putative fathers who have identical DNA.

4 ~~(6) Upon the establishment of the presumption of paternity as~~
5 ~~provided in subsection (5), either party may move for summary~~
6 ~~disposition under the court rules.~~ This section does not abrogate
7 the right of either party to child support from the date of birth
8 of the child if applicable under section 7.

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

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

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

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

20 **(D) GENETIC TESTING UNDER SECTION 6 DETERMINES THAT THE MAN IS**
21 **THE FATHER.**

22 (2) An order of filiation entered under subsection (1) shall
23 specify the sum to be paid weekly or otherwise, as prescribed in
24 section 5 of the support and parenting time enforcement act, 1982
25 PA 295, MCL 552.605, until the child reaches the age of 18. Subject
26 to section 5b of the support and parenting time enforcement act,
27 1982 PA 295, MCL 552.605b, the court may also order support for a

1 child after he or she reaches 18 years of age. In addition to
2 providing for the support of the child, the order shall also
3 provide for the payment of the necessary expenses connected to the
4 mother's pregnancy and the birth of the child and for the funeral
5 expenses if the child has died, as determined by the court under
6 section 2. A child support obligation is only retroactive to the
7 date that the paternity complaint was filed unless any of the
8 following circumstances exist:

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

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

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

15 (3) A judgment or order entered under this act providing for
16 the support of a child or payment of expenses connected to the
17 mother's pregnancy or the birth of the child is enforceable as
18 provided in the support and parenting time enforcement act, 1982 PA
19 295, MCL 552.601 to 552.650. If this act contains a specific
20 provision regarding the contents or enforcement of a support order
21 that conflicts with a provision in the support and parenting time
22 enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act
23 controls in regard to that provision.

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

1 filiation is entered. The clerk shall retain the \$9.00 fee and
2 remit the fee imposed by section 2891(9)(a) of the public health
3 code, 1978 PA 368, MCL 333.2891, with a written report of the order
4 of filiation, to the director of the department of community
5 health. The report shall be on a form prescribed by or in a manner
6 approved by the director of the department of community health.
7 Regardless of whether the fees required by this section are
8 collected, the clerk shall transmit and the department of community
9 health shall receive the report of the order of filiation.

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

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

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.