

SENATE BILL NO. 1180

September 21, 2022, Introduced by Senators HERTEL, BRINKS, MCCANN, POLEHANKI, SANTANA, CHANG, GEISS, BULLOCK, MCMORROW, MOSS and HOLLIER and referred to the Committee on Judiciary and Public Safety.

A bill to amend 2012 PA 159, entitled
"Revocation of paternity act,"
by amending section 13 (MCL 722.1443), as amended by 2016 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) An original action under this act ~~shall~~**must** be
2 filed in the circuit court for the county in which the mother or
3 the child resides or, if neither the mother nor the child reside in
4 this state, in the circuit court for the county in which the child
5 was born. If an action for the support, custody, or parenting time

1 of the child exists at any stage of the proceedings in a circuit
2 court of this state or if an action under section 2(b) of chapter
3 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is
4 pending in a circuit court of this state, an action under this act
5 ~~shall~~**must** be brought by motion in the existing case under rules
6 adopted by the supreme court.

7 (2) In an action filed under this act, the court may do any of
8 the following:

- 9 (a) Revoke an acknowledgment of parentage.
10 (b) Determine that a genetic father is not a child's father.
11 (c) Set aside an order of filiation or a paternity order.
12 (d) Determine that a child was born out of wedlock.
13 (e) Make a determination of paternity and enter an order of
14 filiation as provided for under section 7 of the paternity act,
15 1956 PA 205, MCL 722.717.

16 (3) A judgment entered under this act does not relieve ~~a man~~
17 **an individual** from a support obligation for the child or the
18 child's ~~mother~~**parent** that was incurred before the action was filed
19 or prevent a person from seeking relief under applicable court
20 rules to vacate or set aside a judgment.

21 (4) A court may refuse to enter an order setting aside a
22 paternity determination, revoking an acknowledgment of parentage,
23 determining that a genetic father is not a child's father, or
24 determining that a child is born out of wedlock if the court finds
25 evidence that the order would not be in the best interests of the
26 child. The court ~~shall~~**must** state its reasons for refusing to enter
27 an order on the record. The court may consider the following
28 factors:

- 29 (a) Whether the presumed father is estopped from denying

1 parentage because of his conduct.

2 (b) The length of time the presumed father was on notice that
3 he might not be the child's father.

4 (c) The facts surrounding the presumed father's discovery that
5 he might not be the child's father.

6 (d) The nature of the relationship between the child and the
7 presumed or alleged father.

8 (e) The **child's** age. ~~of the child.~~

9 (f) The harm that may result to the child.

10 (g) Other factors that may affect the equities arising from
11 the disruption of the father-child relationship.

12 (h) Any other factor that the court determines appropriate to
13 consider.

14 (5) The court shall order the parties to an action or motion
15 under this act to participate in and pay for blood or tissue typing
16 or DNA identification profiling to assist the court in making a
17 determination under this act. Blood or tissue typing or DNA
18 identification profiling ~~shall~~**must** be conducted in accordance with
19 section 6 of the paternity act, 1956 PA 205, MCL 722.716. The
20 results of blood or tissue typing or DNA identification profiling
21 are not binding on a court in making a determination under this
22 act.

23 (6) If the case is a title IV-D case, the court may appoint an
24 attorney approved by the office of child support to represent this
25 state's interests with respect to an action or a motion under this
26 act. The court may appoint a guardian ad litem to represent the
27 child's interests with respect to the action or motion.

28 (7) A court shall not issue an order under this act that sets
29 aside a judgment or determination of a court or administrative

1 agency of another state, even if the judgment or determination is
 2 being enforced in this state, or that is inconsistent with 28 USC
 3 1738A or 28 USC 1738B.

4 (8) This act does not establish a basis for termination of an
 5 adoption and does not affect any obligation of an adoptive parent
 6 to an adoptive child.

7 (9) This act does not establish a basis for vacating a
 8 judgment establishing paternity of a child conceived under a
 9 ~~surrogate parentage contract~~ **gestational surrogacy agreement** as
 10 that term is defined in section 3 of the ~~surrogate parenting~~
 11 **gestational surrogacy parentage** act. ~~, 1988 PA 199, MCL 722.853.~~

12 (10) A common law action that was available before June 12,
 13 2012 to set aside a paternity determination or to determine that a
 14 child is born out of wedlock remains available until June 12, 2014,
 15 but is not available after June 12, 2014.

16 (11) Except for an action filed under section 15(2), a court,
 17 in its discretion, may order a ~~person-party~~ who files an action or
 18 motion under this act to post an amount of money with the court,
 19 obtain a surety, or provide other assurances that in the court's
 20 determination will secure the costs of the action and attorney fees
 21 if the ~~person-party~~ does not prevail. The court, in its discretion,
 22 may order a nonprevailing party, including a mother who is a
 23 nonprevailing party under section 15(2), to pay the reasonable
 24 attorney fees and costs of a prevailing party.

25 (12) A court may extend the time for filing an action or
 26 motion under this act. A request for extension ~~shall~~ **must** be
 27 supported by an affidavit signed by the ~~person-party~~ requesting the
 28 extension stating facts that the ~~person-party~~ satisfied all the
 29 requirements for filing an action or motion under this act but did

1 not file the action or motion within the time allowed under this
2 act because of 1 of the following:

3 (a) Mistake of fact.

4 (b) Newly discovered evidence that by due diligence could not
5 have been found earlier.

6 (c) Fraud.

7 (d) Misrepresentation or misconduct.

8 (e) Duress.

9 (13) If the court finds that an affidavit under subsection
10 (12) is sufficient, the court may allow the action or motion to be
11 filed and take other action the court considers appropriate. The
12 party filing the request to extend the time for filing has the
13 burden of proving, by clear and convincing evidence, that granting
14 relief under this act will not be against the best interests of the
15 child considering the equities of the case.

16 (14) An alleged father may not bring an action under this act
17 if the child is conceived as the result of acts for which the
18 alleged father was convicted of criminal sexual conduct under
19 sections 520b to 520e of the Michigan penal code, 1931 PA 328, MCL
20 750.520b to 750.520e.

21 (15) An action may not be brought under this act if the child
22 is under court jurisdiction under chapter XIIA of the probate code
23 of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, and a petition has
24 been filed to terminate the parental rights to the child, unless
25 the court having jurisdiction under chapter XIIA of the probate
26 code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, first finds that
27 allowing an action under this act would be in the best interests of
28 the child.

29 Enacting section 1. This amendatory act does not take effect

1 unless Senate Bill No. 1177 of the 101st Legislature is enacted
2 into law.