

HOUSE BILL No. 4061

January 22, 2009, Introduced by Rep. Lemmons and referred to the Committee on Families and Children's Services.

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
(MCL 552.601 to 552.650) by adding section 5f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5F. (1) AN INDIVIDUAL MAY FILE A MOTION FOR RELIEF FROM A
2 COURT ORDER THAT STATES THAT THE INDIVIDUAL IS A CHILD'S FATHER OR
3 THAT REQUIRES THE INDIVIDUAL TO PAY CHILD SUPPORT. EXCEPT AS
4 OTHERWISE PROVIDED IN THIS SECTION, THE COURT SHALL VACATE THE
5 ORDER STATING THAT THE INDIVIDUAL IS THE CHILD'S FATHER OR
6 TERMINATE THE CHILD SUPPORT ORDER IF THE COURT FINDS BOTH OF THE
7 FOLLOWING:

8 (A) THE INDIVIDUAL IS NOT THE CHILD'S ADOPTIVE FATHER.

9 (B) GENETIC TESTING RESULTS ADMITTED INTO EVIDENCE EXCLUDE THE
10 INDIVIDUAL AS THE CHILD'S FATHER.

1 (2) THE COURT SHALL NOT GRANT A MOTION UNDER SUBSECTION (1) IF
2 THE COURT FINDS THAT THE INDIVIDUAL WHO FILED THE MOTION KNEW OF
3 GENETIC TESTING RESULTS THAT EXCLUDED THE INDIVIDUAL AS THE CHILD'S
4 PARENT MORE THAN 6 MONTHS BEFORE THE MOTION WAS FILED AND THE
5 INDIVIDUAL CANNOT SHOW GOOD CAUSE FOR THE FAILURE TO FILE THE
6 MOTION WITHIN 6 MONTHS AFTER OBTAINING THE TEST RESULTS.

7 (3) THE COURT SHALL NOT GRANT A MOTION UNDER SUBSECTION (1) IF
8 THE COURT FINDS THAT, AFTER THE INDIVIDUAL WHO FILED THE MOTION
9 KNOWS THAT HE IS NOT THE CHILD'S BIOLOGICAL PARENT, ANY OF THE
10 FOLLOWING OCCUR:

11 (A) THE INDIVIDUAL ACKNOWLEDGES PATERNITY OF THE CHILD IN
12 WRITING.

13 (B) THE INDIVIDUAL CONSENTS TO HIS NAME BEING ENTERED AS THE
14 CHILD'S BIOLOGICAL FATHER ON THE CHILD'S BIRTH CERTIFICATE.

15 (C) THE INDIVIDUAL IS DETERMINED TO BE THE CHILD'S FATHER IN
16 AN ACTION UNDER THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO
17 722.730.

18 (D) THE STATE REGISTRAR FILES AN ACKNOWLEDGMENT OF PARENTAGE
19 IN WHICH THE INDIVIDUAL DECLARES HIMSELF TO BE THE CHILD'S
20 BIOLOGICAL FATHER.

21 (E) THE INDIVIDUAL OTHERWISE ADMITS THAT HE IS, OR
22 ACKNOWLEDGES HIMSELF AS, THE CHILD'S BIOLOGICAL FATHER.

23 (4) AN INDIVIDUAL SHALL FILE A MOTION UNDER SUBSECTION (1)
24 WITH THE COURT THAT ISSUED THE ORDER FROM WHICH THE INDIVIDUAL
25 SEEKS RELIEF.

26 (5) IN A PROCEEDING UNDER THIS SECTION, THE COURT, ON
27 APPLICATION MADE BY OR ON BEHALF OF EITHER PARTY OR ON ITS OWN

1 MOTION, SHALL ORDER THE CHILD, THE CHILD'S MOTHER, AND THE
2 INDIVIDUAL WHO FILED THE MOTION UNDER SUBSECTION (1) TO SUBMIT TO
3 GENETIC TESTING WITHIN 30 DAYS AFTER THE ORDER REQUIRING GENETIC
4 TESTING IS ISSUED. GENETIC TESTING UNDER THIS SECTION IS SUBJECT TO
5 THE SAME PROCEDURES AS GENETIC TESTING ORDERED UNDER SECTION 6 OF
6 THE PATERNITY ACT, 1956 PA 205, MCL 722.716.

7 (6) IF THE COURT GRANTS A MOTION UNDER SUBSECTION (1), AND THE
8 INDIVIDUAL WHO FILED THE MOTION AND CHILD ARE ALSO THE SUBJECTS OF
9 A PARENTING TIME ORDER, THE COURT SHALL DETERMINE WHETHER TO
10 TERMINATE, MODIFY, OR CONTINUE THE PARENTING TIME ORDER BASED UPON
11 THE BEST INTERESTS OF THE CHILD. IF THE COURT GRANTS A MOTION UNDER
12 SUBSECTION (1) TO TERMINATE A CHILD SUPPORT ORDER AND AN ARREARAGE
13 EXISTS UNDER THAT ORDER, THE COURT MAY RETROACTIVELY MODIFY THE
14 ARREARAGE.

15 (7) IF THE COURT GRANTS A MOTION UNDER SUBSECTION (1), THE
16 COURT SHALL ORDER THE CHILD'S MOTHER TO REIMBURSE THE INDIVIDUAL
17 WHO FILED THE MOTION FOR ALL CHILD SUPPORT PAYMENTS THAT THE
18 INDIVIDUAL HAS PREVIOUSLY PAID TO HER.

19 (8) IF A MOTION UNDER SUBSECTION (1) IS DENIED, THE COURT
20 SHALL ORDER THE INDIVIDUAL WHO FILED THE MOTION TO PAY THE COSTS OF
21 THE ACTION AND EACH OPPOSING PARTY'S REASONABLE ATTORNEY FEES.

22 (9) AS USED IN THIS SECTION, "GENETIC TESTING" MEANS BLOOD OR
23 TISSUE TYPING OR DNA IDENTIFICATION PROFILING AS DESCRIBED IN AND
24 PRESCRIBED BY THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO
25 722.730.