

SENATE BILL No. 1201

March 3, 2010, Introduced by Senators BASHAM, HUNTER and GLEASON and referred to the Committee on Families and Human Services.

A bill to amend 1956 PA 205, entitled
"The paternity act,"
by amending section 4 (MCL 722.714), as amended by 1998 PA 113, and
by adding section 7c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) An action under this act shall be brought in the
2 circuit court by the mother, the father, ~~a child who became 18~~
3 ~~years of age after August 15, 1984 and before June 2, 1986, or the~~
4 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** as provided
5 in this act. The Michigan court rules for civil actions apply to
6 all proceedings under this act. A complaint shall be filed in the
7 county where the mother or child resides. If both the mother and
8 child reside outside of this state, then the complaint shall be

1 filed in the county where the putative father resides or is found.
2 The fact that the child was conceived or born outside of this state
3 is not a bar to entering a complaint against the putative father.

4 (2) An action to determine paternity shall not be brought
5 under this act if the child's father acknowledges paternity under
6 the acknowledgment of parentage act, **1996 PA 305, MCL 722.1001 TO**
7 **722.1013**, or if the child's paternity is established under the law
8 of another state.

9 (3) An action under this act may be commenced during the
10 pregnancy of the child's mother or at any time before the child
11 reaches 18 years of age. ~~For a child who became 18 years of age~~
12 ~~after August 15, 1984 and before June 2, 1986, an action under this~~
13 ~~act may be commenced before January 1, 1995. This subsection~~
14 ~~applies regardless of whether the cause of action accrued before~~
15 ~~June 1, 1986 and regardless of whether the cause of action was~~
16 ~~barred under this subsection before June 1, 1986.~~ A summons issued
17 under this section shall be in the form the court determines and
18 shall be served in the same manner as is provided by court rules
19 for the service of process in civil actions.

20 (4) If the county ~~family independence agency~~ **DEPARTMENT OF**
21 **HUMAN SERVICES** of the county in which the mother or alleged father
22 resides first determines that she or he has physical possession of
23 the child and is eligible for public assistance or without means to
24 employ an attorney; if the ~~family independence agency~~ **DEPARTMENT OF**
25 **HUMAN SERVICES** is the complainant; or if the mother, alleged
26 father, or child is receiving services under part D of title IV of
27 the social security act, 42 U.S.C. ~~USC~~ 651 to ~~667-669B~~, then the

1 prosecuting attorney or an attorney employed by the county under
2 section 1 of 1941 PA 15, MCL 49.71, shall initiate and conduct
3 proceedings under this act. The prosecuting attorney shall utilize
4 the child support formula developed under section 19 of the friend
5 of the court act, 1982 PA 294, MCL 552.519, as a guideline in
6 petitioning for child support. A complaint filed under this act
7 shall be verified by oath or affirmation.

8 (5) The party filing ~~the~~ **A** complaint **UNDER THIS ACT** shall name
9 the person believed to be the father of the child and state in the
10 complaint the time and place, as near as possible, when and where
11 the mother became pregnant. If the ~~family independence agency~~
12 **DEPARTMENT OF HUMAN SERVICES** is the plaintiff, the required facts
13 shall be stated upon information and belief.

14 (6) Upon the filing of a complaint **UNDER THIS ACT**, the court
15 shall issue a summons against the named defendant. ~~if~~ **SUBJECT TO**
16 **SECTION 7C, IF** the defendant does not file and serve a responsive
17 pleading as required by the court rules, the court may enter a
18 default judgment. Neither party is required to testify before entry
19 of a default judgment in a proceeding under this act.

20 (7) If, after service of process, the parties fail to consent
21 to an order naming the man as the child's father as provided in
22 this act within the time permitted for a responsive pleading, ~~then~~
23 the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or its
24 designee may file and serve both the mother and the alleged father
25 with a notice requiring that the mother, alleged father, and child
26 appear for genetic paternity testing as provided in section 6.

27 (8) If the mother, alleged father, or child does not appear

1 for genetic paternity testing as provided in subsection (7), ~~then~~
2 the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or its
3 designee may apply to the court for an order compelling genetic
4 paternity tests as provided in section 6 or may seek other relief
5 as permitted by statute or court rule.

6 (9) It is unnecessary in any proceedings under this act
7 commenced by or against a minor to have a next friend or guardian
8 ad litem appointed for the minor unless required by the circuit
9 judge. A minor may prosecute or defend any proceedings in the same
10 manner and with the same effect as if he or she were of legal age.

11 (10) If a child born out of wedlock is being supported in
12 whole or in part by public assistance, including medical
13 assistance, the ~~family independence agency~~ **DEPARTMENT OF HUMAN**
14 **SERVICES** may file a complaint on behalf of the child in the circuit
15 court in the county in which the child resides. The mother or
16 alleged father of the child shall be made a party plaintiff and
17 notified of the hearing on the complaint by summons. ~~The A~~
18 ~~complaint made by the family independence agency~~ **UNDER THIS**
19 **SUBSECTION** shall be verified by the director of the ~~family~~
20 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES**, or his or her
21 designated representative, or by the director of the county ~~family~~
22 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES** of the county in
23 which ~~an~~ **THE** action is brought, or the county director's designated
24 representative.

25 (11) 1986 PA 107, which added this subsection, does not affect
26 the rights of an indigent defendant in proceedings under this act
27 as established by decisions of the courts of this state before June

1 1, 1986.

2 (12) If a determination of paternity is made under this act,
3 the court may enter an order of filiation as provided in section 7.
4 Regardless of who commences an action under this act, an order of
5 filiation entered under this act has the same effect, is subject to
6 the same provisions, and is enforced in the same manner as an order
7 of filiation entered on complaint of the mother or father.

8 SEC. 7C. (1) IF THE ACTION UNDER THIS ACT IS BROUGHT BY A
9 PUTATIVE FATHER AGAINST THE MOTHER, IF THE CHILD WHO IS THE SUBJECT
10 OF THE ACTION UNDER THIS ACT IS ALSO THE SUBJECT OF PROCEEDINGS
11 UNDER THE MICHIGAN ADOPTION CODE, OR IF THE PROCEEDINGS ARE STAYED
12 UNDER SECTION 25 OF THE MICHIGAN ADOPTION CODE, MCL 710.25, AND IF
13 A DEFAULT IS ENTERED IN THE ACTION UNDER THIS ACT AGAINST THE
14 MOTHER FOR FAILING TO FILE AND SERVE A RESPONSIVE PLEADING AS
15 REQUIRED BY THE COURT RULES, ON MOTION OF THE PLAINTIFF, THE COURT
16 IN THE ACTION UNDER THIS ACT OR THE COURT PRESIDING OVER THE
17 ADOPTION PROCEEDING SHALL ENTER AN ORDER OF FILIATION UNDER THIS
18 ACT DECLARING THE PLAINTIFF TO BE THE FATHER OF THE CHILD. THE
19 COURT IN THE ACTION UNDER THIS ACT OR THE COURT PRESIDING OVER THE
20 ADOPTION PROCEEDINGS SHALL NOT ENTER AN ORDER OF FILIATION UNDER
21 THIS SUBSECTION IF THE OTHER COURT HAS ALREADY ENTERED THE ORDER.

22 (2) AFTER ENTRY OF AN ORDER OF FILIATION UNDER SUBSECTION (1),
23 IF THE PLAINTIFF REQUESTS CUSTODY OF THE CHILD AND THE MOTHER DOES
24 NOT MOVE TO SET ASIDE THE DEFAULT AND ORDER OF FILIATION, THE COURT
25 THAT ENTERED THE ORDER SHALL AWARD CUSTODY TO THE PLAINTIFF UNDER
26 SECTION 7B UNLESS THE COURT DETERMINES THAT THE AWARD OF CUSTODY
27 WOULD PRESENT A REASONABLE LIKELIHOOD OF HARM TO THE CHILD.

1 (3) AFTER ENTRY OF AN ORDER OF FILIATION UNDER SUBSECTION (1),
2 IF THE PLAINTIFF REQUESTS CUSTODY OF THE CHILD AND THE MOTHER MOVES
3 TO SET ASIDE THE DEFAULT AND ORDER OF FILIATION, THE COURT IN THE
4 ACTION UNDER THIS ACT SHALL MAKE A DETERMINATION OF CUSTODY AND
5 PARENTING TIME UNDER SECTION 7B AS FOR AN ACTION IN WHICH THERE IS
6 A CUSTODY OR PARENTING TIME DISPUTE.

7 (4) AS USED IN THIS SECTION, "THE MICHIGAN ADOPTION CODE"
8 MEANS CHAPTER X OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL
9 710.21 TO 710.70.

10 Enacting section 1. This amendatory act does not take effect
11 unless all of the following bills of the 95th Legislature are
12 enacted into law:

13 (a) Senate Bill No. 1200.

14
15 (b) Senate Bill No. 1202.