SUBSTITUTE FOR

HOUSE BILL NO. 5473

A bill to amend 2012 PA 159, entitled

"Revocation of paternity act,"

by amending section 13 (MCL 722.1443).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) An original action under this act shall be filed

2 in the circuit court for the county in which the mother or the

3 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

6 of the child exists at any stage of the proceedings in a circuit

7 court of this state or if an action under section 2(b) of chapter

8 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is

9 pending in a circuit court of this state, an action under this act

1 shall be brought by motion in the existing case under rules adopted

2 by the supreme court.

3 (2) In an action filed under this act, the court may do any of

4 the following:

5 (a) Revoke an acknowledgment of parentage.

6 **(B) DETERMINE THAT A GENETIC FATHER IS NOT A CHILD'S FATHER.**

7 **(C)** ~~(b)~~ Set aside an order of filiation or a paternity order.

8 **(D)** ~~(c)~~ Determine that a child was born out of wedlock.

9 **(E)** ~~(d)~~ Make a determination of paternity and enter an order

10 of filiation as provided for under section 7 of the paternity act,

11 1956 PA 205, MCL 722.717.

12 (3) A judgment entered under this act does not relieve a man

13 from a support obligation for the child or the child's mother that

14 was incurred before the action was filed or prevent a person from

15 seeking relief under applicable court rules to vacate or set aside

16 a judgment.

17 (4) A court may refuse to enter an order setting aside a

18 paternity determination, **REVOKING AN ACKNOWLEDGMENT OF PARENTAGE,**

19 **DETERMINING THAT A GENETIC FATHER IS NOT A CHILD'S FATHER,** or

20 determining that a child is born out of wedlock if the court finds

21 evidence that the order would not be in the best interests of the

22 child. The court shall state its reasons for refusing to enter an

23 order on the record. The court may consider the following factors:

24 (a) Whether the presumed father is estopped from denying

25 parentage because of his conduct.

26 (b) The length of time the presumed father was on notice that

27 he might not be the child's father.

1   (c) The facts surrounding the presumed father's discovery that

2 he might not be the child's father.

3   (d) The nature of the relationship between the child and the

4 presumed or alleged father.

5   (e) The age of the child.

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

7   (g) Other factors that may affect the equities arising from

8 the disruption of the father-child relationship.

9   (h) Any other factor that the court determines appropriate to

10 consider.

11   (5) The court shall order the parties to an action or motion

12 under this act to participate in and pay for blood or tissue typing

13 or DNA identification profiling to assist the court in making a

14 determination under this act. Blood or tissue typing or DNA

15 identification profiling shall be conducted in accordance with

16 section 6 of the paternity act, 1956 PA 205, MCL 722.716. The

17 results of blood or tissue typing or DNA identification profiling

18 are not binding on a court in making a determination under this

19 act.

20   (6) If the case is a title IV-D case, the court may appoint an

21 attorney approved by the office of child support to represent this

22 state's interests with respect to an action or a motion under this

23 act. The court may appoint a guardian ad litem to represent the

24 child's interests with respect to the action or motion.

25   (7) A court shall not issue an order under this act that sets

26 aside a judgment or determination of a court or administrative

27 agency of another state, even if the judgment or determination is

1 being enforced in this state.

2   (8) This act does not establish a basis for termination of an

3 adoption and does not affect any obligation of an adoptive parent

4 to an adoptive child.

5   (9) This act does not establish a basis for vacating a

6 judgment establishing paternity of a child conceived under a

7 surrogate parentage contract as that term is defined in section 3

8 of the surrogate parenting act, 1988 PA 199, MCL 722.853.

9   (10) A common law action that was available before ~~the~~

10 ~~effective date of this act~~ **JUNE 12, 2012** to set aside a paternity

11 determination or to determine that a child is born out of wedlock

12 remains available until ~~2 years after the effective date of this~~

13 ~~act~~ **JUNE 12, 2014,** but is not available after ~~that date.~~**JUNE 12,**

14 **2014.**

15   (11) A court, in its discretion, may order a person who files

16 an action or motion under this act to post an amount of money with

17 the court, obtain a surety, or provide other assurances that in the

18 court's determination will secure the costs of the action and

19 attorney fees if the person does not prevail. The court, in its

20 discretion, may order a nonprevailing party to pay the reasonable

21 attorney fees and costs of a prevailing party.

22   (12) A court may extend the time for filing an action or

23 motion under this act. A request for extension shall be supported

24 by an affidavit signed by the person requesting the extension

25 stating facts that the person satisfied all the requirements for

26 filing an action or motion under this act but did not file the

27 action or motion within the time allowed under this act because of

1 1 of the following:

2   (a) Mistake of fact.

3   (b) Newly discovered evidence that by due diligence could not

4 have been found earlier.

5   (c) Fraud.

6   (d) Misrepresentation or misconduct.

7   (e) Duress.

8   (13) If the court finds that an affidavit under subsection

9 (12) is sufficient, the court may allow the action or motion to be

10 filed and take other action the court considers appropriate. The

11 party filing the request to extend the time for filing has the

12 burden of proving, by clear and convincing evidence, that granting

13 relief under this act will not be against the best interests of the

14 child considering the equities of the case.

15   (14) An alleged father may not bring an action under this act

16 if the child is conceived as the result of acts for which the

17 alleged father was convicted of criminal sexual conduct under

18 sections 520b to 520e of the Michigan penal code, 1931 PA 328, MCL

19 750.520b to 750.520e.

20   (15) An action may not be brought under this act if the child

21 is under court jurisdiction under chapter XIIA of the probate code

22 of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, and a petition has

23 been filed to terminate the parental rights to the child, unless

24 the court having jurisdiction under chapter XIIA of the probate

25 code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, first finds that

26 allowing an action under this act would be in the best interests of

27 the child.

1   Enacting section 1. This amendatory act takes effect 90 days

2 after the date it is enacted into law.