

# HOUSE BILL No. 5473

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

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

1 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is  
2 pending in a circuit court of this state, an action under this act  
3 shall be brought by motion in the existing case under rules adopted  
4 by the supreme court.

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

7 (a) Revoke an acknowledgment of parentage.

8 (b) Set aside an order of filiation or a paternity order.

9 (c) Determine that a child was born out of wedlock.

10 (d) Make a determination of paternity and enter an order of  
11 filiation as provided for under section 7 of the paternity act,  
12 1956 PA 205, MCL 722.717.

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

18 (4) A court may refuse to enter an order setting aside a  
19 paternity determination, **REVOKING AN ACKNOWLEDGMENT OF PARENTAGE,**  
20 or determining that a child is born out of wedlock if the court  
21 finds evidence that the order would not be in the best interests of  
22 the child. The court shall state its reasons for refusing to enter  
23 an order on the record. The court may consider the following  
24 factors:

25 (a) Whether the presumed father is estopped from denying  
26 parentage because of his conduct.

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

1 he might not be the child's father.

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

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

6 (e) The age of the child.

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

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

10 (h) Any other factor that the court determines appropriate to  
11 consider.

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

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

26 (7) A court shall not issue an order under this act that sets  
27 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.

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

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

10 (10) A common law action that was available before ~~the~~  
11 ~~effective date of this act~~ **JUNE 12, 2012** to set aside a paternity  
12 determination or to determine that a child is born out of wedlock  
13 remains available until ~~2 years after the effective date of this~~  
14 ~~act~~ **JUNE 12, 2014** but is not available after ~~that date~~ **JUNE 12,**  
15 **2014.**

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

23 (12) A court may extend the time for filing an action or  
24 motion under this act. A request for extension shall be supported  
25 by an affidavit signed by the person requesting the extension  
26 stating facts that the person satisfied all the requirements for  
27 filing an action or motion under this act but did not file the

1 action or motion within the time allowed under this act because of  
2 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

1 the child.