

**SUBSTITUTE FOR
HOUSE BILL NO. 5825**

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 36 of chapter X (MCL 710.36), as amended by
1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER X

Sec. 36. (1) If a child is claimed to be born out of wedlock
and the mother executes or proposes to execute a release or consent
relinquishing her rights to the child or joins in a petition for
adoption filed by her husband, and the release or consent of the
natural father cannot be obtained, the judge shall hold a hearing
as soon as practical to determine whether the child was born out of
wedlock, to determine the identity of the father, and to determine

1 or terminate the rights of the father as provided in this section
2 and sections 37 and 39 of this chapter.

3 (2) Proof of service of a notice of intent to release or
4 consent or the putative father's verified acknowledgment of notice
5 of intent to release or consent shall be filed with the court, if
6 the notice was given to the putative father. The court shall
7 request the vital records division of the department of ~~public~~
8 **COMMUNITY** health to send to the court a copy of any notice of
9 intent to claim paternity of the particular child ~~which~~**THAT** the
10 division has received.

11 (3) Notice of the hearing shall be served upon the following:

12 (a) A putative father who has timely filed a notice of intent
13 to claim paternity as provided in section 33 or 34 of this chapter.

14 (b) A putative father who was not served a notice of intent to
15 release or consent at least 30 days before the expected date of
16 confinement specified in the notice of intent to release or
17 consent.

18 (c) Any other male who was not served ~~pursuant~~**ACCORDING** to
19 section 34(1) of this chapter with a notice of intent to release or
20 consent and who the court has reason to believe may be the **CHILD'S**
21 father. ~~of the child.~~

22 (4) The notice of hearing shall inform the putative father
23 that his failure to appear at the hearing ~~shall constitute~~
24 **CONSTITUTES** a denial of his interest in custody of the child, which
25 denial shall result in the court's termination of his rights to the
26 child.

27 (5) Proof of service of the notice of hearing required by

1 subsection (3) shall be filed with the court. A verified
2 acknowledgment of service by the party to be served is proof of
3 personal service. Notice of the hearing ~~shall~~**IS** not ~~be~~ required if
4 the putative father is present at the hearing. A waiver of notice
5 of hearing by a person entitled to receive it is sufficient.

6 (6) The court shall receive evidence as to the identity of the
7 father of the child. **THE COURT SHALL RECEIVE IN LIEU OF THE**
8 **MOTHER'S LIVE TESTIMONY AN AFFIDAVIT OR A VERIFIED WRITTEN**
9 **DECLARATION FROM THE MOTHER AS EVIDENCE OF THE IDENTITY AND**
10 **WHEREABOUTS OF THE CHILD'S FATHER. IF THE COURT DETERMINES THAT THE**
11 **AFFIDAVIT OR VERIFIED WRITTEN DECLARATION IS INSUFFICIENT, THE**
12 **COURT SHALL ALLOW AMENDMENT OF THE AFFIDAVIT OR VERIFIED WRITTEN**
13 **DECLARATION.** Based upon the evidence received, the court shall
14 enter a finding identifying the father or declaring that the
15 identity of the father cannot be determined.

16 (7) If the court finds that the **CHILD'S** father ~~of the child is~~
17 a person who did not receive either a timely notice of intent to
18 release or consent ~~pursuant~~**ACCORDING** to section 34(1) of this
19 chapter or a notice required ~~pursuant to~~**UNDER** subsection (3) ~~and~~
20 who has neither waived his right to notice of hearing nor is
21 present at the hearing, the court shall adjourn further proceedings
22 until that person is served with a notice of hearing.

23 Enacting section 1. This amendatory act takes effect 90 days
24 after the date it is enacted into law.