



SENATE BILL No. 432

February 24, 1993, Introduced by Senators CARL and WELBORN
and referred to the Committee on Family Law, Criminal
Law, and Corrections.

A bill to amend sections 4, 7, and 11 of Act No. 205 of the
Public Acts of 1956, entitled

"The paternity act,"

section 4 as amended by Act No. 289 of the Public Acts of 1992,
section 7 as amended by Act No. 294 of the Public Acts of 1990,
and section 11 as amended by Act No. 244 of the Public Acts of
1990, being sections 722.714, 722.717, and 722.721 of the
Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4, 7, and 11 of Act No. 205 of the
2 Public Acts of 1956, section 4 as amended by Act No. 289 of the
3 Public Acts of 1992, section 7 as amended by Act No. 294 of the
4 Public Acts of 1990, and section 11 as amended by Act No. 244 of
5 the Public Acts of 1990, being sections 722.714, 722.717, and

1 722.721 of the Michigan Compiled Laws, are amended to read as
2 follows:

3 Sec. 4. (1) A proceeding in accordance with this act shall
4 be brought by the mother, the father, a child who became 18 years
5 of age after August 15, 1984, and before June 2, 1986, or the
6 department of social services as provided in this act.
7 Complaints shall be made in the county where the mother and child
8 or 1 of them reside. If both the mother and child reside outside
9 this state, then the complaint shall be made in the county where
10 the putative father resides or is found. The fact that the child
11 was conceived or born outside of this state is not a bar to
12 entering a complaint against the putative father.

13 (2) Proceedings under this act may be instituted during the
14 pregnancy of the child's mother; ~~—~~ at any time before the child
15 reaches 18 years of age; ~~—~~ or BEFORE JANUARY 2, 1995, for a
16 child who became 18 years of age after August 15, 1984, and
17 before June 2, 1986. ~~—, within 2 years after the effective date~~
18 ~~of the 1992 amendatory act that authorizes institution of these~~
19 ~~proceedings by that child.~~ This subsection applies regardless of
20 whether the cause of action accrued before June 1, 1986 and
21 regardless of whether the cause of action was barred under this
22 subsection before June 1, 1986.

23 (3) A complaint under this act shall be filed in the circuit
24 court. If the county department of social services of the county
25 in which the complainant mother resides first determines her to
26 be eligible for public assistance or to be without means to
27 employ an attorney; if the department of social services is the

1 complainant; or if the complainant mother or child is receiving
2 services under part D of Title IV of the social security act,
3 CHAPTER 531, 88 STAT. 2351, 42 U.S.C. 651 to ~~667~~ 669, then the
4 prosecuting attorney or an attorney employed by the county pursu-
5 ant to section 1 of Act No. 15 of the Public Acts of 1941, as
6 amended, being section 49.71 of the Michigan Compiled Laws, shall
7 represent the complainant mother in initiating and conducting the
8 proceedings under this act. The prosecuting attorney shall uti-
9 lize the child support formula developed under section 19 of the
10 friend of the court act, Act No. 294 of the Public Acts of 1982,
11 being section 552.519 of the Michigan Compiled Laws, as a guide-
12 line in petitioning for child support. A complaint filed under
13 this act by the mother of the child shall be verified by the
14 mother by oath or affirmation.

15 (4) A complainant mother shall charge the person named as
16 defendant with being the father of the child and state the time
17 and place, as near as possible, when and where the mother became
18 pregnant. If the department of social services is the complain-
19 ant, the person named as defendant shall be charged upon informa-
20 tion and belief.

21 (5) Upon the filing of a complaint by the mother of the
22 child, the court shall issue a summons against the alleged
23 father. Upon the alleged father appearing before the court by
24 virtue of the summons, the court shall proceed with the trial of
25 the case. The summons shall be in the form the court determines
26 and shall be served in the same manner as is provided by court
27 rules for the service of process in civil actions.

1 (6) The father or putative father of a child born out of
2 wedlock may file a complaint in the circuit court in the county
3 in which the child or mother resides or is found, praying for the
4 entry of the order of filiation as provided for in section 7.
5 The mother of the child shall be made a party defendant and noti-
6 fied of the hearing on the complaint by summons, which shall be
7 in the form the court determines and shall be served in the same
8 manner as is provided by court rules for the service of process
9 in civil actions. The court, following the hearing, may enter an
10 order of filiation. An order of filiation entered under this
11 subsection has the same effect, is subject to the same provi-
12 sions, and is enforced in the same manner as an order of filia-
13 tion entered on complaint of the mother.

14 (7) It is unnecessary in any proceedings under this act com-
15 menced by or against a minor to have a next friend or guardian ad
16 litem appointed for the minor unless required by the circuit
17 judge. A minor may prosecute or defend any proceedings in the
18 same manner and with the same effect as if he or she were of
19 legal age.

20 (8) If a child born out of wedlock is being supported in
21 whole or in part by public OR MEDICAL assistance OR IS RECEIVING
22 SERVICES UNDER PART D OF TITLE IV OF THE SOCIAL SECURITY ACT,
23 CHAPTER 531, 88 STAT. 2351, 42 U.S.C. 651 TO 669, the department
24 of social services may file a complaint on behalf of the child in
25 the circuit court in the county in which the child resides, pray-
26 ing for the entry of the order of filiation, as provided in
27 section 7. The mother of the child shall be made a party

1 plaintiff and notified of the hearing on the complaint by
2 summons, which shall be in the form the court determines and
3 shall be served in the same manner as is provided by court rules
4 for the service of process in civil actions. An order of filia-
5 tion entered under this subsection has the same effect, is
6 subject to the same provisions, and is enforced in the same
7 manner as an order of filiation entered on complaint of the
8 mother. The complaint made by the department of social services
9 shall be verified by the director of social services, or his or
10 her designated representative, or by the director of the county
11 department of social services, or his or her designated represen-
12 tative, of the county in which an action is brought. The action
13 provided for in this subsection may be taken only after the
14 department has unsuccessfully attempted to have the alleged
15 father voluntarily initiate legal action to acknowledge
16 paternity.

17 (9) Act No. 107 of the Public Acts of 1986, which added this
18 subsection, does not affect the rights of an indigent defendant
19 in proceedings under this act as established by decisions of the
20 courts of this state before June 1, 1986.

21 Sec. 7. (1) If the finding of the court or verdict is
22 against the defendant father, if the defendant father acknowl-
23 edges paternity either orally to the court or by the filing with
24 the court a written acknowledgment of paternity, or if he is
25 served with summons and a default is entered against him, the
26 court shall enter an order of filiation declaring paternity and

1 providing for the support of the child, INCLUDING HEALTH CARE
2 COVERAGE.

3 (2) The order of filiation shall specify the sum to be paid
4 weekly or otherwise, until the child reaches the age of 18.
5 Subject to section 7a, the court may also order support for a
6 child after he or she reaches 18 years of age. In addition to
7 providing for the support of the child, the order shall also pro-
8 vide for the payment of the necessary expenses incurred by or for
9 the mother in connection with her confinement, for the funeral
10 expenses if the child has died, for the support of the child
11 prior to the making of the order of filiation, and ~~such~~
12 expenses in connection with the pregnancy of the mother or of the
13 proceedings as the court considers proper. However, if proceed-
14 ings under this act are commenced after the lapse of more than 6
15 years from the birth of the child, an amount shall not be awarded
16 for expenses or support that accrued before the date on which the
17 complaint was filed unless any of the following circumstances
18 exists:

19 (a) Paternity has been acknowledged by the father in writing
20 in accordance with statutory provisions.

21 (b) A payment was made for support of the child during the
22 6-year period, and proceedings are commenced within 6 years from
23 the last of ~~any such~~ THOSE payments.

24 (c) The defendant was out of the state, was avoiding service
25 of process, or threatened or coerced the complainant not to file
26 a proceeding under this act during the 6-year period. The court
27 may award an amount for expenses or support that accrued before

1 the date the complaint was filed if the complaint was filed
2 within a period of time equal to the sum of 6 years and the time
3 ~~which~~ THAT the defendant was out of state, was avoiding service
4 of process, or threatened or coerced the complainant not to file
5 a proceeding under this act.

6 (3) Except as otherwise provided in this section, the court
7 shall order support in an amount determined by application of the
8 child support formula developed by the state friend of the court
9 bureau. The court may enter an order that deviates from the for-
10 mula if the court determines from the facts of the case that
11 application of the child support formula would be unjust or inap-
12 propriate and sets forth in writing or on the record all of the
13 following:

14 (a) The support amount determined by application of the
15 child support formula.

16 (b) How the support order deviates from the child support
17 formula.

18 (c) The value of property or other support awarded in lieu
19 of the payment of child support, if applicable.

20 (d) The reasons why application of the child support formula
21 would be unjust or inappropriate in the case.

22 (4) Subsection (3) does not prohibit the court from entering
23 a support order that is agreed to by the parties and that devi-
24 ates from the child support formula, if the requirements of sub-
25 section (3) are met.

1 (5) Beginning January 1, 1991, each support order entered by
2 the court shall provide that each party shall keep the office of
3 the friend of the court informed of both of the following:

4 (a) The name and address of his or her current source of
5 income. As used in this subdivision, "source of income" means
6 that term as defined in section 2 of the support and visitation
7 enforcement act, Act No. 295 of the Public Acts of 1982, being
8 section 552.602 of the Michigan Compiled Laws.

9 (b) ~~Any health~~ HEALTH care coverage that is available to
10 him or her as a benefit of employment or that is maintained by
11 him or her; the name of the insurance company, health care orga-
12 nization, or health maintenance organization; the policy, certif-
13 icate, or contract number; and the names and birth dates of the
14 persons for whose benefit he or she maintains health care cover-
15 age under the policy, certificate, or contract.

16 (6) For the purposes of this act, "support" may include pay-
17 ment of the expenses of medical, dental, and other health care,
18 child care expenses, and educational expenses. The court shall
19 require that 1 or both parents shall obtain or maintain any
20 health care coverage that is available to them at a reasonable
21 cost, as a benefit of employment, for the benefit of a child who
22 is the subject of an order of filiation under this section. If a
23 parent is self-employed and maintains health care coverage, the
24 court shall require the parent to obtain or maintain dependent
25 coverage for the benefit of the child, if available at a reason-
26 able cost.

1 (7) A judgment or order entered under this act providing for
2 the support of a child or payment of expenses in connection with
3 the mother's confinement or pregnancy shall ~~be~~ CONTAIN THE PRO-
4 VISIONS REQUIRED BY, MAY CONTAIN THE PROVISIONS AUTHORIZED BY,
5 AND IS enforceable as provided in the support and visitation
6 enforcement act, Act No. 295 of the Public Acts of 1982, being
7 sections 552.601 to 552.650 of the Michigan Compiled Laws.

8 (8) Upon entry of an order of filiation, the clerk of the
9 court shall transmit to the director of public health on a form
10 prescribed by the director a written notification of the order,
11 together with ~~such~~ other facts ~~as~~ THAT may assist in identi-
12 fying the birth record of the person whose paternity was in
13 issue. If the order is abrogated by a later judgment or order of
14 the same or a higher court, that fact shall be immediately commu-
15 nicated in writing to the director of public health on a form
16 prescribed by the director by the clerk of the court ~~which~~ THAT
17 entered the order.

18 Sec. 11. (1) ~~(a)~~ If a mother of a child born out of wed-
19 lock possesses property and fails to support and educate her
20 child, the court having jurisdiction, on application of the
21 guardian or next friend of the child, or the department of social
22 services if the child is being supported in whole or in part by
23 public OR MEDICAL assistance OR IS RECEIVING SERVICES UNDER PART
24 D OF TITLE IV OF THE SOCIAL SECURITY ACT, CHAPTER 531,
25 88 STAT. 2351, 42 U.S.C. 651 TO 669, may examine into the matter
26 and after a hearing and subject to section 7(3) or (4) may make

1 an order charging the mother with the payment of money weekly or
2 otherwise for the support and education of the child.

3 (2) ~~-(b)-~~ The court may require the mother to give security,
4 by bond, with sufficient sureties approved by the court for the
5 payment as directed by the order. In case of default under
6 ~~such~~ THE bond, the ~~same~~ BOND shall be enforced in like manner
7 as is provided in section 9.

8 (3) ~~-(c)-~~ Nothing in this section shall be deemed to relieve
9 the father from liability for support and education of the child
10 in accordance with ~~the provisions of~~ this act.