



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 604 (Substitute S-2 as passed by the Senate)
Senate Bills 749 and 750 (as passed by the Senate)
Senate Bill 751 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Dave Honigman (Senate Bill 604)
Senator Robert Geake (Senate Bills 749-751)
Committee: Families, Mental Health and Human Services

Date Completed: 1-30-96

RATIONALE

In recent years, Michigan has amended various laws concerning the determination of a child's paternity. These changes stem largely from Federal requirements that each state have in effect laws requiring the use of specific procedures for establishing and acknowledging paternity. In particular, states must have procedures for a "simple civil process for voluntarily acknowledging paternity", including a hospital-based program for voluntary acknowledgment immediately before or after birth; as well as presumptions of paternity based on voluntary acknowledgments or genetic testing results. Michigan complied with these requirements by enacting Public Acts 115 and 116 of 1993, which amended the Public Health Code to establish the hospital-based program; Public Act 387 of 1994, which amended the Revised Probate Code to change the procedures for acknowledgment of paternity of a child born out of wedlock; and Public Act 388 of 1994, which amended the Paternity Act to require that a default judgment be entered if the alleged father does not appear in a paternity action, to recognize the establishment of paternity under another state's laws, and to require courts to consider custody and visitation during the determination of a paternity dispute.

A number of paternity-related concerns still remain. For instance, the Paternity Act requires prosecutors to represent the *mother* of a child born out of wedlock; it has been suggested that in those rare cases in which a putative father has physical possession of a child, a prosecutor should represent the father. Also, the Act's definition of "child born out of wedlock" refers to a child whom the court "has determined" to be a child born or conceived during a marriage but not the issue of the marriage. According to the Michigan Supreme

Court, this clause requires a *prior determination* that the mother's husband is not the father (*Girard v Wagenmaker*). In addition, although the Supreme Court has made it clear that the Paternity Act is "fundamentally civil in nature" (*Bowerman v MacDonald*), the Act still contains some language that is more appropriate to criminal proceedings, such as a requirement that the defendant be "charged". The Act also contains a section that makes court-approved child support settlements final, which the Michigan Court of Appeals has found to be unconstitutional (*Dones v Thomas*). (These judicial decisions are discussed briefly in BACKGROUND.)

Several issues concerning the voluntary acknowledgment of paternity also have been raised. Under current law, an order of filiation (paternity) is entered by the circuit court. The court is supposed to collect a fee that covers the court clerk's costs and the costs of the Department of Public Health (DPH) to prepare a new birth record. When a child's parents voluntarily acknowledge parentage in the probate court, however, there is no requirement that the probate court coordinate its records with the DPH; if the parents want a new birth record prepared, they must pursue it with the Department. Further, it has been pointed out that statutory acknowledgment of parentage provisions are contained in the Revised Probate Code; some people believe that this could be construed as limiting those provisions to purposes of intestate succession (inheritance without a will). It has been suggested that acknowledgment of parentage provisions should be enacted in the Paternity Act, and that the DPH should be the central repository for acknowledgments.

CONTENT

Senate Bill 604 (S-2) would amend the Paternity Act to do the following:

- Redefine “child born out of wedlock”.
- Specify that the Michigan Rules of Court for civil actions would apply to all proceedings under the Act.
- Apply procedures under the Act to an action brought by either a mother or an alleged father.
- Provide that neither party would have to testify before entry of a default judgment in any proceeding under the Act.
- Allow the Department of Social Services (DSS) to bring an action without first attempting to have the alleged father voluntarily initiate legal action to acknowledge paternity.
- Include medical assistance as public assistance for the purpose of requiring the DSS to file an action.
- Specify the burden of proof for a party objecting to scientific evidence of paternity.
- Require a court to enter an order establishing support if there were a custody dispute between the parties when the court made an determination of paternity.
- Repeal a section making court-approved support agreements final.

Senate Bill 749 would create the “Acknowledgment of Parentage Act” to:

- Provide that a child’s mother and a man could sign an acknowledgment of parentage form that would establish paternity.
- Require completed forms to be filed with the State Registrar, who would have to review and file them in a central registry.
- Require a form to contain specific notices to the parties, including notice that the acknowledgment would waive genetic testing and a trial to determine paternity.
- Provide that after a mother and father signed an acknowledgment, the mother would be presumed to have custody of

the minor child unless otherwise ordered or agreed.

- Require the State Registrar to prepare and approve the form and make it available to the public.
- Provide that a child’s mother, a man signing an acknowledgment, a child, or a prosecuting attorney could file a claim for revocation of an acknowledgment.

Senate Bill 750 would amend the Revised Probate Code to provide that a man would be considered the natural father of a child born out of wedlock, for purposes of intestate succession, if he and the mother signed an acknowledgment of parentage as provided in Senate Bill 749. (Currently, a man and the mother may sign an acknowledgment of paternity, which must be filed with the probate court.)

Senate Bill 751 (S-1) would amend the Public Health Code to require hospitals to give unmarried mothers giving birth an acknowledgment of parentage form and forward completed forms to the State Registrar; require the DPH to develop the form and distribute it free of charge to hospitals; and require an acknowledgment of parentage form to be filed before a birth certificate could contain the name of the father of a child born to an unmarried woman.

All of the bills would take effect on October 1, 1996. Senate Bills 604 (S-2), 750, and 751 (S-1) are tie-barred to Senate Bill 749.

Senate Bill 604 (S-2)

“Child Born out of Wedlock”

Currently, “child born out of wedlock” means a child born to a woman who was not married “from conception to the date of birth of the child”, or a child that the court “has determined” to be a child born or conceived during a marriage but not the issue of that marriage. The bill would define “child born out of wedlock” as a child born to a woman who was not married “at the time of conception or the date of birth of the child”, or a child that the court “determines” to be a child born out of wedlock during a marriage but not the issue of that marriage.

Procedure

Currently, the Act requires a “complainant mother” to charge the person named as defendant with being the father. Upon the filing of a complaint by the mother, the court must issue a summons against the alleged father. When the alleged father appears before the court, the court must proceed with the trial of the case. If the alleged father does not appear, the court must enter a default judgment. The bill would revise these provisions and delete separate provisions under which the father or putative father of a child born out of wedlock may file a complaint for an order of filiation.

Under the Act, a prosecuting attorney is required to represent the complainant mother in initiating and conducting paternity proceedings if the mother is eligible for public assistance or cannot afford an attorney, if the DSS is the complainant, or if the mother or child is receiving services under Part D of Title IV of the Social Security Act (which concerns child support and establishment of paternity). Under the bill, a prosecuting attorney would have to initiate and conduct paternity proceedings if the mother or alleged father had physical possession of the child and were eligible for public assistance or could not afford an attorney, if the DSS were the complainant, or if the mother, alleged father, or child were receiving services under Part D of Title IV of the Social Security Act.

Under the bill, the party filing the complaint would have to name the person believed to be the father. Upon the filing of a complaint, the court would have to issue a summons against the named defendant. If the defendant did not file and serve a responsive pleading as required by the court rules, the court would have to enter a default judgment. Neither party would be required to testify before entry of a default judgment in any proceeding under the Act.

The Act provides that, if a child born out of wedlock is being supported in whole or in part by public assistance, the Department of Social Services may file a complaint on behalf of the child for an order of filiation. The child’s mother must be made a party plaintiff. Under the bill, the mother *or* alleged father would have to be made a party plaintiff. The bill specifies that public assistance would include medical assistance. The bill would delete a provision that an action may be taken by the DSS only after the Department has unsuccessfully attempted to have the alleged

father voluntarily initiate legal action to acknowledge paternity.

Presumption of Paternity

The Act requires a court, upon application by either party or on its own motion, to order that the mother, child, and alleged father submit to blood or tissue typing determinations or DNA profiles to determine whether the alleged father is likely to be, or is not, the father of the child. The blood or tissue typing or DNA profile determination must be conducted by an accredited person. The result or, if a determination of exclusion of paternity cannot be made, a written report including a calculation of the probability of paternity, must be filed with the court and served on the alleged father. Objection to the result or report is waived unless made within 14 days after service on the alleged father. The objecting party has the burden of proving that foundation testimony or other proof of authenticity or accuracy is necessary for admission of the result or report. If the probability of paternity determined by the qualified person is 99% or higher, paternity must be presumed. The burden of proof is upon the alleged father to rebut the presumption by clear and convincing evidence.

Under the bill, the result of blood or tissue typing or a DNA profile determination would have to be served on both the mother and the alleged father, and an objection could be made within 14 days after service on both parties. The objecting party would have the burden of proving by clear and convincing evidence by a qualified person that foundation testimony or other proof of authenticity or accuracy was necessary for admission of the result or report. Paternity would have to be presumed if the probability of paternity determined by the qualified person were 99% or higher *and* the result and report were admissible. The bill would delete the provision that the burden of proof is upon the alleged father to rebut the presumption.

The bill specifies that, upon the establishment of the presumption of paternity, either party could move for summary disposition under the court rules. Nothing in the section of the Act providing for a presumption of paternity would abrogate the right of either party to child support from the date of the child’s birth if applicable under the Act.

Support Order

Under the Act, if the court makes a determination of paternity and there is no dispute regarding

custody, the court must include in the order of filiation specific provisions for the custody and visitation of the child. If there is a custody or visitation dispute, the court must immediately enter an order that temporarily establishes custody and visitation of the child. The bill would require the court also to enter an order establishing support, in the event of a custody or visitation dispute.

Other Provisions

Currently, an action does not have to be brought under the Act if the child's father acknowledges paternity under the Revised Probate Code. The bill would refer, instead, to the proposed Acknowledgment of Parentage Act.

Currently, if an order of filiation is abrogated by a later judgment or order of a court, the clerk of the court that entered the order must immediately inform the Director of Public Health of the abrogation. Under the bill, this notification requirement also would apply if an acknowledgment of parentage were abrogated by a later judgment or court order. Further, the bill specifies that an order of filiation would supersede an acknowledgment of parentage.

The bill would repeal a section of the Paternity Act under which an agreement by a mother or child and the father concerning the child's support and education is binding upon the mother and child only when the court having jurisdiction has determined that adequate provision is reasonably secured and has approved the agreement (MCL 722.713). This section also provides that the performance of the agreement bars other remedies of the mother and child for the child's support and education.

Senate Bill 749

Acknowledgment of Parentage

If a child were born out of wedlock, a man would be considered to be the natural father of the child if the man joined with the child's mother and acknowledged the child as his child by completing a form that was an acknowledgment of parentage. ("Child" would mean "a child conceived and born to a woman who was not married at the time of conception or the date of birth of the child, or a child that the circuit court determines was born or conceived during a marriage is not the issue of that marriage".)

An acknowledgment of parentage form would be valid and effective if signed by the mother and father and those signatures were notarized by a notary public authorized by the state in which the acknowledgment was signed. An acknowledgment could be signed any time during the child's lifetime. The mother and father would have to be given a copy of the completed acknowledgment at the time of signing.

An acknowledgment would establish paternity, and could be the basis for court-ordered child support, custody, or visitation without further adjudication under the Paternity Act. The child would bear the same relationship to the mother and the man signing as the father as a child born or conceived during a marriage and would have the identical status, rights, and duties of a child born in lawful wedlock effective from birth.

Filing with the State Registrar

A completed original acknowledgment of parentage would have to be filed with the State Registrar (an individual appointed by the DPH Director to administer the system of vital statistics). Upon receiving an acknowledgment, the State Registrar would have to review the form. If it appeared to be properly completed and notarized, the State Registrar would have to file the acknowledgment in a central registry in the Office of the State Registrar. A filed acknowledgment would have to be maintained as a permanent record in a manner consistent with Section 2876 of the Public Health Code (which requires the DPH to provide for the preservation of vital records and vital statistics made or received by the Department).

The State Registrar would have to issue a copy of an acknowledgment filed in the central registry under the procedures and upon payment of the fee prescribed by the Public Health Code. Upon its filing, a completed acknowledgment form could serve as a basis for preparation of a new birth certificate.

Contents and Preparation of Form

An acknowledgment of parentage form would have to include at least all of the following written notices to the parties:

- The acknowledgment of parentage would be a legal, public document.

- Completion of the acknowledgment would be voluntary.
- The mother would have custody of the child unless otherwise determined by the court or agreed by the parties in writing.
- Either parent could assert a claim in court for visitation or custody.
- The parents would have a right to notice and a hearing regarding the child's adoption.
- Both parents would have the responsibility to support the child and to comply with a court or administrative order for the child's support.

The form also would have to include notice that the acknowledgment would waive the following:

- Blood or genetic tests to determine if the man was the child's biological father.
- Any right to an attorney, including the prosecuting attorney or an attorney appointed by the court in the case of indigency, to represent either party in a court action to determine if the man was the child's biological father.
- A trial to determine if the man was the child's biological father.

The State Registrar would have to prepare or approve the form used for acknowledgment of parentage. The form would have to conform as closely as possible to the preceding provisions, Federal requirements, and the needs of other appropriate State agencies. The State Registrar would have to make the form available to the public through the Department of Social Services, prosecuting attorneys, and hospitals as provided in the Public Health Code.

Claim for Revocation

The mother or the man who signed the acknowledgment, the child who was the subject of the acknowledgment, or a prosecuting attorney could file a claim for revocation of an acknowledgment of parentage. If filed as an original action, the claim would have to be filed in the circuit court of the county where either the mother or the man resided. If neither of those parties lived in this State, the claim would have to be filed in the county where the child resided. A claim for revocation could be filed as a motion in an existing action for child support, custody, or visitation in the county where the action was, and all provisions in the proposed Act would apply as if it were an original action.

A claim for revocation would have to be supported by an affidavit signed by the claimant setting forth facts that constituted one of the following: mistake of fact; newly discovered evidence that by due diligence could not have been found before the acknowledgment was signed; fraud; misrepresentation or misconduct; or duress in signing the acknowledgment.

If it found that the affidavit was sufficient, the court could order blood or genetic tests at the claimant's expense, or could take other action the court considered appropriate. The party filing the claim would have the burden of proving, by clear and convincing evidence, that the man was not the father and that, considering the equities of the case, revocation was proper.

The court clerk would have to forward a copy of an order of revocation to the State Registrar. The State Registrar would have to vacate the acknowledgment and could amend the birth certificate as prescribed by the order.

Whether a claim for revocation arose as an original action or as a motion in another action, the prosecuting attorney, an attorney appointed by the county, or an attorney appointed by the court would not be required to represent either party regarding the claim.

Other Provisions

After a mother and father signed an acknowledgment of parentage, the mother would be presumed to have custody of the minor child unless otherwise determined by the court or otherwise agreed upon by the parties in writing.

In proceedings under the proposed Act, the court could appoint a next friend or guardian ad litem to represent a minor parent at the court's discretion. A minor parent could sign an acknowledgment of parentage with the same effect as if he or she were of legal age.

Except as otherwise provided by law, a mother and father who signed an acknowledgment that was filed with the State Registrar would be consenting to the general, personal jurisdiction of the courts of record of this State regarding the issues of the support, custody, and visitation of the child.

The proposed Act would not affect the validity of an acknowledgment signed before the Act's

effective date. The procedures for determination of a claim for revocation would apply to all acknowledgments, including those signed before the Act's effective date.

Senate Bill 750

Under the Revised Probate Code, if a child is born out of wedlock or is born or conceived during a marriage but is not the issue of that marriage, a man is considered to be the natural father of the child for all purposes of intestate succession (without a will) if the man joins with the child's mother and acknowledges that child as his child by completing and filing an acknowledgment of paternity (or if other conditions are met). The man and mother must sign the acknowledgment in the presence of two witnesses and in the presence of a judge, court clerk, or notary public. The acknowledgment must be filed with the probate court.

The bill would delete these references to an acknowledgment of paternity, and provide that a man would be considered a child's natural father if he or she joined with the child's mother and acknowledged that child as his child by completing an acknowledgment of parentage as prescribed in the proposed Acknowledgment of Parentage Act.

The bill also would delete a requirement that, if the Department of Social Services or the prosecuting attorney provides assistance to parties in executing an acknowledgment of paternity, the Department or prosecutor give the mother and man written information on the parents' rights and responsibilities resulting from the acknowledgment.

In addition, the bill would delete a provision that an acknowledgment of paternity is presumed to establish paternity for all purposes, and may be set aside by the circuit court only if the man is proven not to be the father by clear and convincing evidence.

Currently, a child conceived "following artificial insemination" of a married woman with the consent of her husband must be considered as their child for all purposes of intestate succession. The bill would refer, instead, to a child conceived by a married woman with her husband's consent "following the utilization of assisted reproductive technology".

Senate Bill 751 (S-1)

The Public Health Code requires a hospital to give an unmarried mother of a live child born in the hospital a form that may be completed by the mother and father to acknowledge paternity of the child as provided in the Revised Probate Code. The hospital must file the completed acknowledgment of paternity with the probate court of the mother's county of residence, and give the DPH a copy of the acknowledgment. Upon its filing with the probate court, the acknowledgment establishes legal paternity.

The bill provides, instead, that a hospital would have to give to an unmarried mother of a live child an acknowledgment of parentage form that could be completed by the child's mother and father to acknowledge paternity of the child as provided in the proposed Acknowledgment of Parentage Act. The hospital would have to forward a completed acknowledgment of parentage to the State Registrar. The bill would continue to require a hospital to give the parents information on the purpose and completion of the form and on the parents' rights and responsibilities, but would delete a description of what that information must include. The DPH would have to develop the acknowledgment of parentage form and distribute it free of charge to hospitals; currently, the Department must develop and distribute free of charge the acknowledgment of paternity form. The bill would require the form to include all of the notices specified in the proposed Acknowledgment of Parentage Act. Hospitals would have to provide each parent with a copy of the completed form.

Under the Code, if a child's mother was not married at the time of conception or birth, the father's name may not be entered on the birth certificate without the mother's written consent and without the completion, and filing in the probate court, of an acknowledgment of paternity by the mother and the individual to be named as the father. The acknowledgment of paternity must be completed as provided in the Revised Probate Code. The bill provides, instead, that if a child's mother were not married at the time of conception or birth, the father's name could not be entered on the birth certificate without the mother's written consent and without the completion, and filing with the State Registrar, of an acknowledgment of parentage by the mother and the individual to be named as the father. The acknowledgment of

parentage would have to be completed as provided in the proposed Acknowledgment of Parentage Act.

The Code requires the State Registrar to establish a new birth certificate for an individual born in this State when the Registrar receives certain items, including a request that a new certificate be established and the evidence required by the DPH proving that the individual has been legitimated or a court determination of the individual's paternity has been made. The bill, instead, would require the State Registrar to issue a new birth certificate upon receiving a request and the evidence required by the Department proving that the individual's paternity had been established.

Currently, upon written request and payment of the prescribed fee, the State Registrar or local registrar must issue a certified copy of a live birth record or a certificate of registration containing certain facts (i.e., the name of the individual to whom the vital record pertains, the nature, date, and place of the event, and the date of filing) to the individual who is the subject of the live birth record, a parent named in the birth record, an heir, a legal representative or legal guardian of the individual who is the subject of the live birth record, or a court of competent jurisdiction. The bill also would require the State Registrar or local registrar to issue a certified copy of the documentary evidence on file in the Office of the State Registrar that was not sealed under the Code and that served as the basis for a change of a live birth record. Further, the State Registrar or local registrar would have to issue to any applicant a certified copy of an acknowledgment of parentage that was filed after October 1, 1996.

The Code provides that a child born to a married woman as a result of artificial insemination, with consent of her husband, is considered to be the legitimate child of the husband and wife. The bill would refer, instead, to a child conceived by a married woman, with her husband's consent, following the use of assisted reproductive technology.

The bill would amend the Code's definition of "vital record" to include an acknowledgment of parentage.

MCL 722.711 et al. (S.B. 604)
700.111 (S.B. 750)
333.1104 et al. (S.B. 751)

BACKGROUND

***Girard v Wagenmaker*, 437 Mich 231 (1991)**

This dispute began when the plaintiff filed a complaint alleging that he was the father of a child conceived and born while the defendant-mother was married to her husband. The complaint alleged that the child was not a child of that marriage, and requested a determination of the child's paternity and an order of filiation if the plaintiff was found to be the child's biological father. The defendant filed a motion for summary disposition, alleging that the plaintiff did not establish that the child was a "child born out of wedlock". The Michigan Supreme Court examined the Paternity Act's definition of "child born out of wedlock": a child born during a marriage whom the court "has determined" to be not the issue of the marriage. (Although the Act subsequently was amended to refer to a child "born or conceived" during a marriage, the Court stated that this would not have changed its result.) Based on its interpretation of the Paternity Act, the Court held that, "...the Legislature did not express an intention to grant a putative father standing to establish the paternity of a child born while the mother was legally married to another man without a prior determination that the mother's husband is not the father". The Court concluded that the plaintiff in this case had no standing to bring an action to determine the paternity of the defendant's child.

***Bowerman v MacDonald*, 431 Mich 1 (1988)**

Among the issues in this consolidated decision were whether a search warrant or an evidentiary hearing was necessary prior to a trial court's order of a blood test in a paternity case, and whether a defendant father may be held in contempt for refusing to submit to a blood test. In addressing these issues, the Michigan Supreme Court examined the history of the Paternity Act and the nature of paternity actions, and found that, "With minor exceptions, the civil aspects of the action, as defined by statute and case law have steadily increased while those aspects reflecting principles of criminal procedure have been reduced or eliminated altogether." The Court noted that the Paternity Act was, in numerous respects, a significant break from its predecessor, the Bastardy Act of 1846. "It introduced the use of a new and often dispositive type of evidence, and, in nearly all respects, it directed the judiciary to apply rules of civil procedure." In addition, when the

General Court Rules of 1963 were approved, they contained a special rule, GCR 730 (subsequently replaced by Michigan Court Rule 3.217), which applied rules of civil procedure to actions under the Paternity Act as long as the rules were not in conflict with the Act. The Court concluded, "In sum, while we recognize that paternity actions are a 'special legislative creation'..., they are fundamentally civil in nature."

Dones v Thomas, 210 Mich App 674 (1995)

In this case, a prior paternity claim had been brought by the child's mother at the time of the child's birth. The mother was not married to the defendant at the time of the child's conception and birth, but apparently the defendant had executed an acknowledgment of paternity. The prior action was settled by the defendant's paying the mother approximately \$52,000 and purchasing an annuity that would provide \$2,764.78 monthly until the child reached 18 years of age and then a lump sum payment of \$100,000. The prior action was dismissed. The plaintiff-child, in this action, claimed that the defendant was his father and that the plaintiff's right to support could not have been compromised by the earlier settlement. The Michigan Court of Appeals examined Section 3 of the Paternity Act, which provides that a settlement made by the mother or child and the father concerning the child's support is binding when the court has approved the settlement. The Court concluded that Section 3 "...is unconstitutional because it violates equal protection to the extent that it affords the parties to a paternity action greater settlement rights than are afforded parties to a divorce action with respect to the child support issue and to the extent that it renders child support awards under the Paternity Act unmodifiable while child support awards under the divorce statutes remain modifiable".

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Senate Bills 749, 750, and 751 (S-1) would make the State's system of vital statistics more accurate, efficient, and complete by requiring that completed acknowledgments of parentage be filed with the State Registrar. The bills thus would establish the DPH as the central filing place for acknowledgments of parentage. Also, by placing acknowledgment provisions in the Paternity Act, and bringing the Revised Probate Code into conformity with that Act, the bills would eliminate

any contention that these provisions apply only to intestate cases. The bills also include provisions under which an acknowledgment could be challenged, which is not currently addressed by the Revised Probate Code.

Response: Although hospitals would have to forward completed acknowledgments to the State Registrar, there still could be cases in which a child's parents voluntarily acknowledged parentage but did not pursue filing with the DPH. Also, DPH records still would not reflect orders of filiation entered by a circuit court that did not collect the required fee.

Supporting Argument

Senate Bill 604 (S-2) contains a number of provisions that would improve the Paternity Act. Among other things, the bill would remove gender-based distinctions governing paternity proceedings, and require a prosecutor to represent whichever parent had physical possession of a child if the parent qualified for public assistance or could not afford an attorney. By changing the definition of "child born out of wedlock", the bill would address the type of situation found in *Girard v Wagenmaker*, and allow putative fathers to file for a determination of paternity of a child born or conceived during a marriage--regardless of whether there had been a prior court determination that the child was born out of wedlock. The bill also would remove any remaining vestiges of criminal language in the Act, and state explicitly that court rules for civil actions apply to paternity proceedings. In addition, the bill would make it clear that neither party had to testify before a default judgment was entered in a paternity action; reportedly, some courts require testimony although it is not mandated by the Act. The bill also would ensure that medical assistance was considered public assistance for purposes of requiring the DSS to file a complaint; apparently, in many cases, a child and parent receive Medicaid but no other form of public assistance. Further, if a party were objecting to a report of blood or tissue typing or a DNA profile, the bill would require that objection to be based on scientific evidence. In addition, the bill would remove an unconstitutional section of the Act making court-approved support settlements final.

Supporting Argument

Among other things, Public Act 388 of 1994 included a requirement that courts order temporary custody and visitation when determining a paternity action, if there is a dispute between the parties concerning custody or visitation. This was designed to ensure that children were not left in limbo pending a resolution of a paternity dispute, as well as to prevent incidents of child-snatching

by parents attempting to evade support obligations when a custody order has not been issued. To prevent defense attorneys from using this provision as a tactic to stall support payments, the bill would require a court also to enter an order establishing support.

Legislative Analyst: S. Margules

FISCAL IMPACT

Senate Bill 604 (S-2)

The bill would have no fiscal impact on State or local government.

Senate Bill 749

The estimated cost of establishing and maintaining the central registry that would be required under the bill would be approximately \$300,000. It appears that Federal funds would be available through the Department of Social Services to cover at least a portion of the costs of the new registry.

Senate Bill 750

The bill would have no fiscal impact on State or local government. In fact, according to the Office of Child Support (OCS), the package of bills could allow for some Federal and State fund savings due to a number of efficiencies, such as creating improved record access and eliminating some system problems. Currently, it is difficult to calculate actual savings; however, the OCS will monitor the process in the regional and local offices to determine the fiscal impact on the system.

Senate Bill 751 (S-1)

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Bain
P. Graham
C. Cole

A9596\S604A

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.