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RIGHTS OF PUTATIVE FATHERS

House Bill 4634

Sponsor: Rep. Andrew Richner

Committee: Civil Law and the Judiciary

Complete to 4-30-01

A SUMMARY OF HOUSE BILL 4634 AS INTRODUCED 4-19-01

Under the Michigan Adoption Code (chapter 10 of the Probate Code), in cases where the mother of a child born out of wedlock proposes to relinquish her parental rights or joins in a petition for adoption filed by her husband, the parental rights of the putative father cannot be terminated except under certain circumstances, and the putative father can request custody of the child. If the putative father requests custody of the child, the court must inquire into the putative father's fitness and his ability to properly care for the child and must determine whether the best interests of the child will be served by granting custody to the putative father. If the court finds that it would not be in the best interests of the child to grant custody to the putative father, the court must terminate his rights to the child.

House Bill 4634 would amend the adoption code (a) to specify that unless the custody dispute were between the putative father and the child's mother, it would be a rebuttable presumption that the best interests of the child were served by awarding custody to the putative father; and (b) to prohibit courts from terminating the rights of putative fathers (except in accordance with proceedings under the adoption or juvenile codes) if the putative father could show, by a preponderance of the evidence, either that

- he had been deceived as to the pregnancy of the mother or the birth of his child or the father's status as the child's father, or
- he was thwarted or somehow prevented from providing or attempting to provide, in accordance with his ability, substantial and regular support or care to "the mother and child during the pregnancy or for either the mother or child during and after the child's birth."

The bill also would require a court that terminated a putative father's rights to state on the record the reasons for the termination of rights.

MCL 710.39

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.