

HOUSE BILL No. 5991

September 12, 1990, Introduced by Rep. Nye and referred to the Committee on Judiciary.

A bill to amend sections 7, 10, and 11 of Act No. 205 of the Public Acts of 1956, entitled

"The paternity act,"

section 7 as amended by Act No. 277 of the Public Acts of 1989 and section 10 as amended by Act No. 107 of the Public Acts of 1986, being sections 722.717, 722.720, and 722.721 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7, 10, and 11 of Act No. 205 of the
2 Public Acts of 1956, section 7 as amended by Act No. 277 of the
3 Public Acts of 1989 and section 10 as amended by Act No. 107 of
4 the Public Acts of 1986, being sections 722.717, 722.720, and
5 722.721 of the Michigan Compiled Laws, are amended to read as
6 follows:

1 Sec. 7. (1) If the finding of the court or verdict is
2 against the defendant father, if the defendant father
3 acknowledges paternity either orally to the court or by the
4 filing with the court a written acknowledgment of paternity, or
5 if he is served with summons and a default is entered against
6 him, the court shall enter an order of filiation declaring pater-
7 nity and providing for the support of the child.

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

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

24 (b) A payment was made for support of the child during the
25 6-year period, and proceedings are commenced within 6 years from
26 the last of any such payments.

1 (c) The defendant was out of the state, was avoiding service
2 of process, or threatened or coerced the complainant not to file
3 a proceeding under this act during the 6-year period. The court
4 may award an amount for expenses or support that accrued before
5 the date the complaint was filed if the complaint was filed
6 within a period of time equal to the sum of 6 years and the time
7 which the defendant was out of state, was avoiding service of
8 process, or threatened or coerced the complainant not to file a
9 proceeding under this act.

10 (3) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE
11 court shall order support in an amount determined by application
12 of the child support formula developed by the state friend of the
13 court bureau. ~~, except that the~~ THE court may enter an order
14 that deviates from the formula ~~under either of the following~~
15 ~~circumstances: (a) If~~ IF the court determines from the facts of
16 the case that application of the child support formula would be
17 unjust or inappropriate and sets forth in writing or on the
18 record all of the following:

19 (A) ~~(i)~~ The support amount determined by application of
20 the child support formula.

21 (B) ~~(ii)~~ How the support order deviates from the child
22 support formula.

23 (C) ~~(iii)~~ The value of property or other support awarded
24 in lieu of the payment of child support, if applicable.

25 ~~(iv) The court's reasons for its determination.~~

1 ~~(b) If the parties agree to a different amount, provided~~
2 ~~that the party receiving child support is not a recipient of~~
3 ~~public assistance.~~

4 (D) THE REASONS WHY APPLICATION OF THE CHILD SUPPORT FORMULA
5 WOULD BE UNJUST OR INAPPROPRIATE IN THE CASE.

6 (4) SUBSECTION (3) DOES NOT PROHIBIT THE COURT FROM ENTERING
7 A SUPPORT ORDER THAT IS AGREED TO BY THE PARTIES AND THAT DEVI-
8 ATES FROM THE CHILD SUPPORT FORMULA, IF THE REQUIREMENTS OF SUB-
9 SECTION (3) ARE MET.

10 (5) ~~(4)~~ For the purposes of this act, "support" may
11 include payment of the expenses of medical, dental, and other
12 health care, child care expenses, and educational expenses. The
13 court shall require that 1 or both parents shall obtain or main-
14 tain any health care coverage that is available to them at a rea-
15 sonable cost, as a benefit of employment, for the benefit of a
16 child who is the subject of an order of filiation under this
17 section. If a parent is self-employed and maintains health care
18 coverage, the court shall require the parent to obtain or main-
19 tain dependent coverage for the benefit of the child, if avail-
20 able at a reasonable cost.

21 (6) ~~(5)~~ A judgment or order entered under this act provid-
22 ing for the support of a child or payment of expenses in connec-
23 tion with the mother's confinement or pregnancy shall be enforce-
24 able as provided in the support and visitation enforcement act,
25 Act No. 295 of the Public Acts of 1982, being sections 552.601 to
26 552.650 of the Michigan Compiled Laws.

1 (7) ~~-(6)-~~ Upon entry of an order of filiation, the clerk of
2 the court shall transmit to the director of public health on a
3 form prescribed by the director a written notification of the
4 order, together with such other facts as may assist in identify-
5 ing the birth record of the person whose paternity was in issue.
6 If the order is abrogated by a later judgment or order of the
7 same or a higher court, that fact shall be immediately communi-
8 cated in writing to the director of public health on a form pre-
9 scribed by the director by the clerk of the court which entered
10 the order.

11 Sec. 10. Until the judgment of the court has been com-
12 pletely satisfied, the court shall have continuing jurisdiction
13 over proceedings brought under this act to increase or decrease
14 the amount fixed by the order of filiation SUBJECT TO SECTION
15 7(3) OR (4), to provide for reasonable visitation, and to change
16 the custody of the child.

17 Sec. 11. (a) If a mother of a child born out of wedlock
18 possesses property and fails to support and educate her child,
19 the court having jurisdiction, on application of the guardian or
20 next friend of the child, or the department of social services if
21 the child is being supported in whole or in part by public
22 assistance, may examine into the matter and after a hearing AND
23 SUBJECT TO SECTION 7(3) OR (4) may make an order charging the
24 mother with the payment of money weekly or otherwise for the sup-
25 port and education of the child.

26 (b) The court may require the mother to give security, by
27 bond, with sufficient sureties approved by the court for the

1 payment as directed by the order. In case of default under such
2 bond, the same shall be enforced in like manner as is provided in
3 section 9.

4 (c) Nothing in this section shall be deemed to relieve the
5 father from liability for support and education of the child in
6 accordance with the provisions of this act.