

HOUSE BILL No. 4635

April 19, 2001, Introduced by Rep. Koetje and referred to the Committee on Civil Law and the Judiciary.

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
(MCL 552.601 to 552.650) by adding section 5.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5. (1) AN INDIVIDUAL MAY FILE A MOTION FOR RELIEF FROM
2 A COURT ORDER THAT STATES THAT THE INDIVIDUAL IS A CHILD'S FATHER
3 OR THAT REQUIRES THE INDIVIDUAL TO PAY CHILD SUPPORT. EXCEPT AS
4 OTHERWISE PROVIDED IN THIS SECTION, THE COURT SHALL VACATE AN
5 ORDER STATING AN INDIVIDUAL IS A CHILD'S FATHER OR TERMINATE A
6 CHILD SUPPORT ORDER IF THE COURT FINDS BOTH OF THE FOLLOWING:
7 (A) THE INDIVIDUAL IS NOT THE CHILD'S ADOPTIVE PARENT.
8 (B) GENETIC TESTING RESULTS ARE ADMITTED INTO EVIDENCE AND
9 THE RESULTS EXCLUDE THE INDIVIDUAL AS THE CHILD'S PARENT. THE
10 COURT SHALL NOT ADMIT INTO EVIDENCE GENETIC TESTING RESULTS FROM

1 A TEST THAT WAS CONDUCTED MORE THAN 6 MONTHS BEFORE THE MOTION IS
2 FILED.

3 (2) THE COURT SHALL NOT GRANT A MOTION UNDER SUBSECTION (1)
4 IF THE COURT FINDS THAT, AFTER AN INDIVIDUAL KNOWS THAT HE IS NOT
5 A CHILD'S BIOLOGICAL PARENT, ANY OF THE FOLLOWING OCCUR:

6 (A) THE INDIVIDUAL ACKNOWLEDGES PATERNITY OF THE CHILD IN
7 WRITING.

8 (B) THE INDIVIDUAL CONSENTS TO HIS NAME BEING ENTERED AS THE
9 CHILD'S BIOLOGICAL FATHER ON THE CHILD'S BIRTH CERTIFICATE.

10 (C) THE INDIVIDUAL IS DETERMINED TO BE THE CHILD'S FATHER IN
11 AN ACTION UNDER THE PATERNITY ACT, 1956 PA 206, MCL 722.711 TO
12 722.730.

13 (D) THE STATE REGISTRAR FILES AN ACKNOWLEDGMENT OF PARENTAGE
14 IN WHICH THE INDIVIDUAL DECLARES HIMSELF TO BE THE CHILD'S BIO-
15 LOGICAL FATHER.

16 (E) THE INDIVIDUAL OTHERWISE ADMITS THAT HE IS, OR ACKNOWL-
17 EDGES HIMSELF AS, THE CHILD'S BIOLOGICAL FATHER.

18 (3) SUBSECTION (2) DOES NOT APPLY IF THE COURT FINDS THAT AN
19 EVENT LISTED IN SUBSECTION (2) OCCURRED BEFORE THE INDIVIDUAL
20 KNEW THAT HE IS NOT THE CHILD'S BIOLOGICAL FATHER.

21 (4) AN INDIVIDUAL SHALL FILE A MOTION UNDER THIS SECTION
22 WITH THE COURT THAT ISSUED THE ORDER FROM WHICH THE MOVING PARTY
23 SEEKS RELIEF. ON THE COURT'S OWN OR AN ADVERSE PARTY'S MOTION,
24 THE COURT MAY CHANGE VENUE IF THE COURT FINDS THAT THE ORIGINAL
25 VENUE PRESENTS A HARDSHIP FOR AN ADVERSE PARTY.

26 (5) IN A PROCEEDING UNDER THIS SECTION, THE COURT, UPON
27 APPLICATION MADE BY OR ON BEHALF OF EITHER PARTY, OR ON ITS OWN

1 MOTION, SHALL ORDER THE CHILD, THE CHILD'S MOTHER, AND THE
2 INDIVIDUAL FILING THE MOTION UNDER SUBSECTION (1) TO SUBMIT TO
3 GENETIC TESTING WITHIN 30 DAYS AFTER THE ORDER IS ISSUED.
4 GENETIC TESTING UNDER THIS SECTION IS SUBJECT TO THE SAME PROCE-
5 DURES AS GENETIC TESTING ORDERED UNDER SECTION 6 OF THE PATERNITY
6 ACT, 1956 PA 204, MCL 722.716.

7 (6) IF THE COURT GRANTS A MOTION UNDER THIS SECTION TO
8 VACATE OR TERMINATE AN ORDER, AND THE MOVING PARTY AND CHILD ARE
9 ALSO THE SUBJECTS OF A PARENTING TIME ORDER, THE COURT SHALL
10 DETERMINE IF THE PARENTING TIME ORDER IS TERMINATED, MODIFIED, OR
11 CONTINUED. IF THE COURT GRANTS A MOTION UNDER THIS SECTION TO
12 TERMINATE A CHILD SUPPORT ORDER AND AN ARREARAGE EXISTS UNDER
13 THAT ORDER, THE COURT MAY CANCEL THE ARREARAGE.

14 (7) IF A MOTION UNDER THIS SECTION IS TO TERMINATE A CHILD
15 SUPPORT ORDER AND THE COURT DOES NOT GRANT THE MOTION, THE COURT
16 SHALL ORDER THE MOVING PARTY TO PAY THE COSTS OF THE ACTION AND
17 EACH OPPOSING PARTY'S REASONABLE ATTORNEY FEES.

18 (8) AS USED IN THIS SECTION, "GENETIC TESTING" MEANS BLOOD
19 OR TISSUE TYPING, OR DNA IDENTIFICATION PROFILING, AS DESCRIBED
20 IN AND PRESCRIBED BY THE PATERNITY ACT, 1956 PA 204, MCL 722.711
21 TO 722.730.