

SENATE BILL No. 1200

March 3, 2010, Introduced by Senators BASHAM, HUNTER and GLEASON and referred to the Committee on Families and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 25, 33, 37, and 39 of chapter X (MCL 710.25, 710.33, 710.37, and 710.39), section 25 as added by 1982 PA 72 and section 39 as amended by 1998 PA 94.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 25. (1) ~~All~~ **EXCEPT AS PROVIDED IN SUBSECTION (3)**, ALL proceedings under this chapter shall be considered to have the highest priority and shall be advanced on the court docket so as to provide for their earliest practicable disposition.

(2) ~~An~~ **EXCEPT AS PROVIDED IN SUBSECTION (3)**, AN adjournment or continuance of a proceeding under this chapter shall not be granted

1 without a showing of good cause.

2 (3) IF AN ACTION TO DETERMINE PATERNITY IS BROUGHT UNDER THE
3 PATERNITY ACT, 1956 PA 205, MCL 722.711 TO 722.730, AND THE CHILD
4 WHO IS THE SUBJECT OF THAT ACTION IS ALSO THE SUBJECT OF AN
5 ADOPTION PETITION BROUGHT UNDER THIS CHAPTER, THE ADOPTION
6 PROCEEDING SHALL BE STAYED UNTIL PATERNITY IS DETERMINED.

7 Sec. 33. (1) Before the birth of a child born out of wedlock,
8 a person claiming under oath to be the father of the child may file
9 a verified notice of intent to claim paternity with the court in
10 any county of this state. The form of the notice shall be
11 prescribed by the director of the department of ~~public~~ **COMMUNITY**
12 health and provided to the court. The notice shall include the
13 claimant's address. On the next business day after receipt of the
14 notice the court shall transmit the notice to the vital records
15 division of the department of ~~public~~ **COMMUNITY** health. If the
16 mother's address is stated on the notice, the vital records
17 division shall send a copy of the notice by first-class mail to the
18 mother of the child at the stated address.

19 (2) A person filing a notice of intent to claim paternity
20 shall be presumed to be the father of the child for purposes of
21 this chapter unless the mother denies that the claimant is the
22 father. ~~Such a~~ **THAT** notice is admissible in a paternity proceeding
23 under ~~Act No. 205 of the Public Acts of 1956, as amended, being~~
24 ~~sections 722.711 to 722.730 of the Michigan Compiled Laws~~ **THE**
25 **PATERNITY ACT, 1956 PA 205, MCL 722.711 TO 722.730**, and shall
26 create a rebuttable presumption as to the paternity of that child
27 for purposes of that act. ~~Such a~~ **THAT** notice shall create a

1 rebuttable presumption as to paternity of the child for purposes of
2 dependency or neglect proceedings under chapter ~~12a~~-XIIA.

3 (3) A person who timely files a notice of intent to claim
4 paternity ~~shall be~~ **IS** entitled to notice of any hearing involving
5 that child to determine the identity of the father of the child and
6 any hearing to determine or terminate his paternal rights to the
7 child.

8 (4) **IF A PUTATIVE FATHER FILES A NOTICE OF INTENT TO CLAIM**
9 **PATERNITY AND THE BIRTH MOTHER DOES NOT CONTEST PATERNITY, THE**
10 **COURT PRESIDING OVER THE ADOPTION PROCEEDING SHALL ENTER AN ORDER**
11 **OF FILIATION UNDER THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO**
12 **722.730, IF REQUESTED BY THE PUTATIVE FATHER, DECLARING THE**
13 **PUTATIVE FATHER TO BE THE FATHER OF THE CHILD.**

14 Sec. 37. (1) ~~If~~ **EXCEPT AS PROVIDED IN SUBSECTION (3), IF** the
15 court has proof that the person whom it determines ~~pursuant to~~
16 **UNDER** section 36 to be the father of the child was timely served
17 with a notice of intent to release or consent ~~pursuant to~~ **UNDER**
18 section 34(1) or was served with or waived the notice of hearing
19 required by section 36(3), the court may permanently terminate the
20 rights of the putative father under any of the following
21 circumstances:

22 (a) The putative father submits a verified affirmation of his
23 paternity and a denial of his interest in custody of the child.

24 (b) The putative father files a disclaimer of paternity. For
25 purposes of this section the filing of the disclaimer of paternity
26 ~~shall constitute~~ **CONSTITUTES** a waiver of notice of hearing and
27 ~~shall constitute~~ **CONSTITUTES** a denial of his interest in custody of

1 the child.

2 (c) The putative father was served with a notice of intent to
3 release or consent in accordance with section 34(1), at least 30
4 days before the expected date of confinement specified in that
5 notice but failed to file an intent to claim paternity either
6 before the expected date of confinement or before the birth of the
7 child.

8 (d) The putative father is given proper notice of hearing in
9 accordance with section 36(3) or 36(5) but either fails to appear
10 at the hearing or appears and denies his interest in custody of the
11 child.

12 (2) If the identity of the father cannot be determined, or if
13 the identity of the father is known but his whereabouts cannot be
14 determined, the court shall take evidence to determine the facts in
15 the matter. The court may terminate the rights of the putative
16 father if the court finds from the evidence that reasonable effort
17 has been made to identify and locate the father and that any of the
18 following circumstances exist:

19 (a) The putative father, whose identity is not known, has not
20 made provision for the child's care and did not provide support for
21 the mother during her pregnancy or during her confinement.

22 (b) The putative father, whose identity is known but whose
23 whereabouts are unknown, has not provided support for the mother,
24 has not shown any interest in the child, and has not made provision
25 for the child's care, for at least 90 days preceding the hearing
26 required under section 36.

27 (3) IF A PUTATIVE FATHER HAS OBTAINED AN ORDER OF FILIATION,

1 HIS PARENTAL RIGHTS MAY NOT BE TERMINATED UNLESS THE COURT FINDS
2 THAT IT WOULD NOT BE IN THE BEST INTERESTS OF THE CHILD TO GRANT
3 CUSTODY TO THE PUTATIVE FATHER AFTER AN INQUIRY INTO HIS FITNESS
4 AND ABILITY TO PROPERLY CARE FOR THE CHILD.

5 Sec. 39. (1) If the putative father does not come within the
6 provisions of subsection (2), and if the putative father appears at
7 the hearing and requests custody of the child, the court shall
8 inquire into his fitness and his ability to properly care for the
9 child and shall determine whether the best interests of the child
10 will be served by granting custody to him. If the court finds that
11 it would not be in the best interests of the child to grant custody
12 to the putative father, the court shall terminate his rights to the
13 child.

14 (2) If the putative father has established a custodial
15 relationship with the child or has provided substantial and regular
16 support or care in accordance with the putative father's ability to
17 provide ~~such~~**THAT** support or care for the mother during pregnancy
18 or for either mother or child after the child's birth during the 90
19 days before notice of the hearing was served upon him, the rights
20 of the putative father shall not be terminated except by
21 proceedings in accordance with section 51(6) of this chapter or
22 section 2 of chapter XIIIA. **THE COURT SHALL USE THE CHILD SUPPORT**
23 **FORMULA DEVELOPED UNDER SECTION 19 OF THE FRIEND OF THE COURT ACT,**
24 **1982 PA 294, MCL 552.519, AS A GUIDELINE WITH THE PARTIES IMPUTED**
25 **WITH MINIMUM WAGE OR ACTUAL WAGES, WHICHEVER IS GREATER, IN**
26 **DETERMINING WHETHER THE PUTATIVE FATHER HAS PROVIDED SUBSTANTIAL**
27 **AND REGULAR SUPPORT OR CARE.**

1 (3) If the parental rights of the mother are terminated
2 ~~pursuant to~~ **UNDER** this chapter or other law and if the court awards
3 custody of a child born out of wedlock to the putative father, the
4 court shall enter an order granting custody to the putative father
5 and legitimating the child for all purposes. Upon entry of an order
6 granting custody and legitimating the child, the clerk of the court
7 shall collect a fee of \$35.00 from the putative father. The clerk
8 shall retain \$9.00 of the fee and remit the \$26.00 balance, along
9 with a written report of the order granting custody and
10 legitimating the child, to the director of the department of
11 community health. The report shall be on a form prescribed by or in
12 a manner approved by the director of the department of community
13 health. Regardless of whether the fee required by this section is
14 collected, the clerk shall transmit and the department of community
15 health shall receive the report of the order granting custody and
16 legitimating the child.