

GENETIC PARENTAGE ACT

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House Bill 5464 (Substitute H-1)

Sponsor: Rep. Thomas B. Hooker

(Enacted as Public Act 365 of 2014)

Committee: Families, Children, and Seniors

Complete to 8-27-14

A SUMMARY OF HOUSE BILL 5464 AS REPORTED FROM COMMITTEE

House Bill 5464 would create a new act entitled, "the Genetic Parentage Act." The main provisions of the bill are described section-by-section below. The bill is tie-barred to House Bills 5463, 5465, and 5583, meaning House Bill 5464 could not take effect unless these three bills were also enacted.

Section 5: Acknowledgement of Paternity

Under the bill, this act could not be used to determine paternity if either of the following are true:

- The child's father has previously acknowledged paternity under the Acknowledgement of Paternity Act, (MCL 722.1001 to 722.1013), or if the child's paternity has been established under the law of this or another state.
- The child is subject to a pending adoption proceeding under the Michigan Adoption Code (MCL 710.21 to 710.70) or is subject to a pending adoption proceeding in another state.

Section 7: Determination of Parentage

If a child is born out of wedlock, a man would be considered to be the biological father of that child if all of the following are true:

- The alleged father or mother is receiving services from a Title IV-D agency.
- The mother, child, and alleged father submitted to blood or tissue typing determinations that may include, determinations of red cell antigens, red cell isoenzymes, human leukocyte antigens, serum proteins, or DNA identification profiling, to determine whether the alleged father is likely to be, or is not, the father of the child.
- A blood or tissue typing or DNA identification profiling was conducted by a person accredited for paternity determinations by a nationally recognized scientific organization, including, but not limited to, the American Association of Blood Banks and approved by the Department of Human Services.

- The probability of paternity determined by the qualified person or agency conducting the blood or tissue typing or DNA identification profiling is 99% or higher.
- The mother and the alleged father sign a form created by the Department of Human Services agreeing to submit to the test. The form would include the following information:
 - A summary of how the tests will be conducted and how the test results will establish or exclude the alleged father as the child's father.
 - That if genetic testing established paternity, the mother would be granted initial custody of the child, without prejudice to the determination of either parent's custodial rights, until determined by the court, or otherwise agreed upon by the parties in writing and acknowledged by the court.
 - That the parties consent to the general personal jurisdiction of the court of record regarding the issues of the support, custody, and parenting time of the child.

If the results of the analysis of genetic testing material of two or more persons indicate a probability of paternity greater than 99%, the accredited person would be required to conduct additional genetic paternity testing until all but one of the alleged fathers is eliminated, unless the dispute involves two or more alleged fathers who have identical DNA.

A "Title IV-D agency" refers to that term as defined in the Support and Parenting Time Enforcement Act; in that act, the term is defined as the agency in this state performing the functions under Title IV-D of the federal Social Security Act and includes a person performing those functions under contract, including an office of the friend of the court or a prosecuting attorney.

Section 9: Genetic Testing

Under the bill, genetic testing that determines a man is the biological father of a child establishes paternity. If genetic testing establishes paternity, the mother is granted initial custody of the child, without prejudice to the determination of either parent's custodial rights, until determined by the court or otherwise agreed upon by the parties in writing and acknowledged by the court. This grant of initial custody to the mother would not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.

Further, genetic testing that determines the man is the biological father could be the basis for court-ordered child support, custody, or parenting time without further adjudication under the Paternity Act. The child who is the subject of the genetic testing would have the same relationship to the mother and the man determined to be the biological father as

a child born or conceived during a marriage and would have identical status, rights, and duties of a child born in lawful wedlock effective from birth.

Section 11: Genetic Paternity Determination Form and Summary Report

The bill would direct the Title IV-D agency to file a genetic paternity determination form and a summary report with the state registrar. The state registrar would have to review the form and report upon receipt. If the form and report appeared to comply with the provisions of the act, the registrar would file the form and report in a parentage registry in the Office of the State Registrar. The report and form filed with the state registrar would be maintained as a permanent record in a manner consistent the provisions of the Public Health Code.

(A genetic paternity determination form provides genetic testing information to the state registrar. It provides identifying information for individuals on the summary report and includes identifying information for the child, the mother, and father, and other identifying information required to comply with the act.)

The Title IV-D agency would need to provide a copy of the genetic paternity determination form and the summary report to the mother and father. When both the form and the report are filed with the state registrar on a child born in this state, the father of the child could be included on the birth certificate unless another man is reported as the child's father on the birth certificate. The state registrar would be required to collect the fee to amend the birth certificate. For an amended birth certificate and upon written request of both parents, the child's surname would be recorded on the birth certificate as designated by the child's parents. The state registrar would issue, upon request, a copy of the genetic paternity determination form and summary report filed in the parentage registry and upon payment of the fee prescribed in the Public Health Code.

A "genetic paternity determination form" is defined as a form issued by the Title IV-D agency to provide genetic testing information to the state registrar. A genetic paternity determination form provides identifying information for individuals on the summary report and includes identifying information for the child, the mother, and father, and other required information.

Section 13: Consent to Jurisdiction of Courts

A mother and father who have genetic tests filed as a genetic paternity determination form would be consenting to the general personal jurisdiction of the courts of record of this state regarding the issues of the support, custody, and parenting time of the child.

Section 15: DHS to Create the Genetic Paternity Transmittal

The Department of Humans Services, in consultation with the Department of Community Health, would be required to create the genetic paternity determination form.

Enacting Section 1: Effective Date

The bill would take effect 90 days after enactment, subject to the tie-bars in Enacting Section 2, which were described earlier.

FISCAL IMPACT:

Department of Community Health

As reported from committee, House Bill 5464 (H-1) affects the State Registrar at the Department of Community Health, who is responsible for vital records. The state vital records system is supported by fees for services, which are established in the Public Health Code. There may be costs to the department to modify the parentage registry records system for receipt and retention of new genetic paternity determination form and summary report records, and for requested services related to the records. The bill requires that established fees be paid for the costs of these related services, including provision of a copy of a genetic paternity determination form and summary report record, the current fee for which is \$34, and amending a related birth certificate, which is currently \$50.

POSITIONS:

Family Law Section-State Bar of Michigan, supports the bill. (4-21-14)

Department of Community Health is neutral on the bill. (5-21-14)

Legislative Analyst: E. Best
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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.