

SUBSTITUTE FOR
HOUSE BILL NO. 5466

A bill to amend 1956 PA 205, entitled
"The paternity act,"
by amending section 4 (MCL 722.714), as amended by 1998 PA 113.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) An action under this act shall be brought in the
2 circuit court by the mother, the father, a child who became 18
3 years of age after August 15, 1984 and before June 2, 1986, or the
4 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** as provided
5 in this act. The Michigan court rules for civil actions apply to
6 all proceedings under this act. A complaint shall be filed in the
7 county where the mother or child resides. If both the mother and
8 child reside outside of this state, then the complaint shall be
9 filed in the county where the putative father resides or is found.
10 The fact that the child was conceived or born outside of this state
11 is not a bar to entering a complaint against the putative father.

1 (2) An action to determine paternity shall not be brought
2 under this act if the child's father acknowledges paternity under
3 the acknowledgment of parentage act, or if the child's paternity is
4 established under the law of another state.

5 (3) An action under this act may be commenced during the
6 pregnancy of the child's mother or at any time before the child
7 reaches 18 years of age. For a child who became 18 years of age
8 after August 15, 1984 and before June 2, 1986, an action under this
9 act may be commenced before January 1, 1995. This subsection
10 applies regardless of whether the cause of action accrued before
11 June 1, 1986 and regardless of whether the cause of action was
12 barred under this subsection before June 1, 1986. A summons issued
13 under this section shall be in the form the court determines and
14 shall be served in the same manner as is provided by court rules
15 for the service of process in civil actions.

16 (4) If the county ~~family independence agency~~ **DEPARTMENT OF**
17 **HUMAN SERVICES** of the county in which the mother or alleged father
18 resides first determines that she or he has physical possession of
19 the child and is eligible for public assistance or without means to
20 employ an attorney; if the ~~family independence agency~~ **DEPARTMENT OF**
21 **HUMAN SERVICES** is the complainant; or if the mother, alleged
22 father, or child is receiving services under part D of title IV of
23 the social security act, 42 U.S.C. ~~USC~~ 651 to 667, **669B**, then the
24 prosecuting attorney ~~or an attorney employed by the county under~~
25 ~~section 1 of 1941 PA 15, MCL 49.71,~~ shall initiate and conduct
26 proceedings under this act. The ~~prosecuting attorney shall utilize~~
27 ~~the~~ child support formula developed under section 19 of the friend

1 of the court act, 1982 PA 294, MCL 552.519, **SHALL BE USED** as a
2 guideline in petitioning for child support. A complaint filed under
3 this act shall be verified by oath or affirmation.

4 (5) **THE PROSECUTING ATTORNEY AND THE DEPARTMENT OF HUMAN**
5 **SERVICES MAY ENTER INTO AN AGREEMENT TO TRANSFER THE PROSECUTOR'S**
6 **RESPONSIBILITIES UNDER THIS ACT TO 1 OF THE FOLLOWING:**

7 (A) **THE FRIEND OF THE COURT, WITH THE APPROVAL OF THE CHIEF**
8 **JUDGE OF THE CIRCUIT COURT.**

9 (B) **AN ATTORNEY EMPLOYED OR CONTRACTED BY THE COUNTY UNDER**
10 **SECTION 1 OF 1941 PA 15, MCL 49.71.**

11 (C) **AN ATTORNEY EMPLOYED BY OR UNDER CONTRACT WITH THE**
12 **DEPARTMENT OF HUMAN SERVICES.**

13 (6) **A PROCEEDING UNDER THIS SECTION IS CONDUCTED ON BEHALF OF**
14 **THE STATE AND NOT AS THE ATTORNEY FOR ANY OTHER PARTY.**

15 (7) ~~(5)~~—The party filing the complaint shall name the person
16 believed to be the father of the child and state in the complaint
17 the time and place, as near as possible, when and where the mother
18 became pregnant. If the ~~family independence agency~~ **DEPARTMENT OF**
19 **HUMAN SERVICES** is the plaintiff, the required facts shall be stated
20 upon information and belief.

21 (8) ~~(6)~~—Upon the filing of a complaint, the court shall issue
22 a summons against the named defendant. If the defendant does not
23 file and serve a responsive pleading as required by the court
24 rules, the court may enter a default judgment. Neither party is
25 required to testify before entry of a default judgment in a
26 proceeding under this act.

27 (9) ~~(7)~~—If, after service of process, the parties fail to

1 consent to an order naming the man as the child's father as
2 provided in this act within the time permitted for a responsive
3 pleading, then the ~~family independence agency~~ **DEPARTMENT OF HUMAN**
4 **SERVICES** or its designee may file and serve both the mother and the
5 alleged father with a notice requiring that the mother, alleged
6 father, and child appear for genetic paternity testing as provided
7 in section 6.

8 (10) ~~(8)~~—If the mother, alleged father, or child does not
9 appear for genetic paternity testing as provided in subsection ~~(7)~~,
10 (9), then the ~~family independence agency~~ **DEPARTMENT OF HUMAN**
11 **SERVICES** or its designee may apply to the court for an order
12 compelling genetic paternity tests as provided in section 6 or may
13 seek other relief as permitted by statute or court rule.

14 (11) ~~(9)~~—It is unnecessary in any proceedings under this act
15 commenced by or against a minor to have a next friend or guardian
16 ad litem appointed for the minor unless required by the circuit
17 judge. A minor may prosecute or defend any proceedings in the same
18 manner and with the same effect as if he or she were of legal age.

19 (12) ~~(10)~~—If a child born out of wedlock is being supported in
20 whole or in part by public assistance, including medical
21 assistance, the ~~family independence agency~~ **DEPARTMENT OF HUMAN**
22 **SERVICES** may file a complaint on behalf of the child in the circuit
23 court in the county in which the child resides. The mother or
24 alleged father of the child shall be made a party plaintiff and
25 notified of the hearing on the complaint by summons. The complaint
26 made by the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES**
27 shall be verified by the director of the ~~family independence~~

1 ~~agency,~~ **DEPARTMENT OF HUMAN SERVICES**, or his or her designated
2 representative, or by the director of the county ~~family~~
3 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES** of the county in
4 which an action is brought, or the county director's designated
5 representative.

6 (13) ~~(11)~~ 1986 PA 107, which added this subsection, does not
7 affect the rights of an indigent defendant in proceedings under
8 this act as established by decisions of the courts of this state
9 before June 1, 1986.

10 (14) ~~(12)~~ If a determination of paternity is made under this
11 act, the court may enter an order of filiation as provided in
12 section 7. Regardless of who commences an action under this act, an
13 order of filiation entered under this act has the same effect, is
14 subject to the same provisions, and is enforced in the same manner
15 as an order of filiation entered on complaint of the mother or
16 father.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.