

# HOUSE BILL NO. 5211

October 24, 2023, Introduced by Reps. Conlin, Steckloff, Morgan and O'Neal and referred to the Committee on Judiciary.

A bill to amend 1956 PA 205, entitled "The paternity act," by amending sections 1, 4, 4b, and 7 (MCL 722.711, 722.714, 722.714b, and 722.717), section 1 as amended by 2000 PA 31, section 4 as amended by 2014 PA 367, section 4b as added by 1994 PA 388, and section 7 as amended by 2014 PA 364, and by adding section 4c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 1. As used in this act:
- 2           (a) "Child born out of wedlock" means a child begotten and
- 3           born to a woman who was not married from the conception to the date

1 of birth of the child, or a child that the court has determined to  
2 be a child born or conceived during a marriage but not the issue of  
3 that marriage.

4 (b) "Child" means a child born out of wedlock.

5 ~~(c) "Mother" means the mother of a child born out of wedlock.~~

6 (c) ~~(d)~~ "Court" means the circuit court.

7 (d) "Department" means the department of health and human  
8 services.

9 (e) "Director" means the director of the department.

10 (f) ~~(e)~~ "DNA identification profile" means the results of the  
11 DNA identification profiling of genetic testing material.

12 (g) ~~(f)~~ "DNA identification profiling" means a validated  
13 scientific method of analyzing components of deoxyribonucleic acid  
14 molecules in a sample of genetic testing material to identify the  
15 pattern of the components' chemical structure that is unique to the  
16 individual.

17 (h) "Genetic testing material" means a sample of an  
18 individual's blood, saliva, or tissue collected from the individual  
19 that is used for genetic paternity testing conducted under this  
20 act.

21 (i) "Mother" means the mother of a child born out of wedlock.

22 (j) ~~(g)~~ "State disbursement unit" or "SDU" means the entity  
23 established in section 6 of the office of child support act, 1971  
24 PA 174, MCL 400.236.

25 ~~(h) "Genetic testing material" means a sample of an  
26 individual's blood, saliva, or tissue collected from the individual  
27 that is used for genetic paternity testing conducted under this  
28 act.~~

29 (k) ~~(i)~~ "Summary report" means a written summary of the DNA

1 identification profile that includes only the following  
2 information:

3 (i) The court case number, if applicable, the laboratory case  
4 number or identification number, and the ~~family independence agency~~  
5 **department** case number.

6 (ii) The mother's name and race.

7 (iii) The child's name.

8 (iv) The alleged father's name and race.

9 (v) The collection dates and identification numbers of the  
10 genetic testing material.

11 (vi) The cumulative paternity index.

12 (vii) The probability of paternity.

13 (viii) The conclusion as to whether the alleged father can or  
14 cannot be excluded as the biological father.

15 (ix) The name, address, and telephone number of the contracting  
16 laboratory.

17 (x) The name of the individual certifying the report.

18 Sec. 4. (1) An action under this act ~~shall~~**must** be brought in  
19 the circuit court by the mother, the father, a child who became 18  
20 years of age after August 15, 1984 and before June 2, 1986, or the  
21 department ~~of human services~~ as provided in this act. The Michigan  
22 court rules for civil actions apply to all proceedings under this  
23 act. A complaint ~~shall~~**must** be filed in the county where the mother  
24 or child resides. If both the mother and child reside outside of  
25 this state, ~~then~~ the complaint ~~shall~~**must** be filed in the county  
26 where the putative father resides or is found. The fact that the  
27 child was conceived or born outside of this state is not a bar to  
28 entering a complaint against the putative father.

29 (2) An action to determine paternity ~~shall~~**must** not be brought

1 under this act if the child's father **or other parent** acknowledges  
2 ~~paternity-parentage~~ under the acknowledgment of parentage act, **1996**  
3 **PA 305, MCL 722.1001 to 722.1013**, or if the child's ~~paternity~~  
4 **parentage** is 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-must~~ be in the form the court determines  
14 and ~~shall-must~~ be served in the same manner as is provided by court  
15 rules for the service of process in civil actions.

16 (4) If the county department ~~of human services~~ of the county  
17 in which the mother or alleged father resides first determines that  
18 she or he has physical possession of the child and is eligible for  
19 public assistance or without means to employ an attorney; if the  
20 department ~~of human services~~ is the complainant; or if the mother,  
21 alleged father, or child is receiving services under part D of  
22 title IV of the social security act, 42 USC 651 to 669b, ~~then~~ the  
23 prosecuting attorney ~~shall-must~~ initiate and conduct proceedings  
24 under this act. The child support formula developed under section  
25 19 of the friend of the court act, 1982 PA 294, MCL 552.519, ~~shall~~  
26 **must** be used as a guideline in petitioning for child support. A  
27 complaint filed under this act ~~shall-must~~ be verified by oath or  
28 affirmation.

29 (5) The prosecuting attorney and the department ~~of human~~

1 ~~services~~ may enter into an agreement to transfer the prosecutor's  
2 responsibilities under this act to 1 of the following:

3 (a) The friend of the court, with the approval of the chief  
4 judge of the circuit court.

5 (b) An attorney employed or contracted by the county under  
6 section 1 of 1941 PA 15, MCL 49.71.

7 (c) An attorney employed by or under contract with the  
8 department. ~~of human services.~~

9 (6) A proceeding under this section is conducted on behalf of  
10 the state and not as the attorney for any other party.

11 (7) The party filing the complaint ~~shall~~**must** name the person  
12 believed to be the father of the child and state in the complaint  
13 the time and place, as near as possible, when and where the mother  
14 became pregnant. If the department ~~of human services~~ is the  
15 plaintiff, the required facts ~~shall~~**must** be stated upon information  
16 and belief.

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

23 (9) If, after service of process, the parties fail to consent  
24 to an order naming the man as the child's father as provided in  
25 this act within the time permitted for a responsive pleading, ~~then~~  
26 the department ~~of human services~~ or its designee may file and serve  
27 both the mother and the alleged father with a notice requiring that  
28 the mother, alleged father, and child appear for genetic paternity  
29 testing as provided in section 6.

1           (10) If the mother, alleged father, or child does not appear  
2 for genetic paternity testing as provided in subsection (9), ~~then~~  
3 the department ~~of human services~~ or its designee may apply to the  
4 court for an order compelling genetic paternity tests as provided  
5 in section 6 or may seek other relief as permitted by statute or  
6 court rule.

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

13           (12) If a child born out of wedlock is being supported in  
14 whole or in part by public assistance, including medical  
15 assistance, the department ~~of human services~~ may file a complaint  
16 on behalf of the child in the circuit court in the county in which  
17 the child resides. The mother or alleged father of the child ~~shall~~  
18 **must** be made a party plaintiff and notified of the hearing on the  
19 complaint by summons. The complaint made by the department ~~of human~~  
20 ~~services shall~~ **must** be verified by the director of the department,  
21 ~~of human services, or his or her~~ **the director's** designated  
22 representative, or by the director of the county department ~~of~~  
23 ~~human services~~ of the county in which an action is brought, or the  
24 county director's designated representative.

25           (13) 1986 PA 107, which added this subsection, does not affect  
26 the rights of an indigent defendant in proceedings under this act  
27 as established by decisions of the courts of this state before June  
28 1, 1986.

29           (14) If a determination of paternity is made under this act,

1 the court may enter an order of filiation as provided in section 7.  
2 Regardless of who commences an action under this act, an order of  
3 filiation entered under this act has the same effect, is subject to  
4 the same provisions, and is enforced in the same manner as an order  
5 of filiation entered on complaint of the mother or father.

6       Sec. 4b. The establishment of ~~paternity~~**parentage** under the  
7 law of another state has the same effect and may be used for the  
8 same purposes as an acknowledgment of ~~paternity~~**parentage** or order  
9 of filiation under this act.

10       **Sec. 4c. The parentage of either of the following must not be**  
11 **determined under this act:**

12       **(a) A child conceived through the use of assisted reproduction**  
13 **that does not involve surrogacy if the parents of the child may be**  
14 **determined under the assisted reproduction and surrogacy parentage**  
15 **act.**

16       **(b) A child conceived under a surrogacy agreement that**  
17 **complies with the assisted reproduction and surrogacy parentage**  
18 **act.**

19       Sec. 7. (1) In an action under this act, the court ~~shall~~**must**  
20 enter an order of filiation declaring paternity and providing for  
21 the support of the child under 1 or more of the following  
22 circumstances:

23       (a) The finding of the court or the verdict determines that  
24 the man is the father.

25       (b) The defendant acknowledges paternity either orally to the  
26 court or by filing with the court a written acknowledgment of  
27 ~~paternity~~**parentage**.

28       (c) The defendant is served with summons and a default  
29 judgment is entered against him or her.

1 (d) Genetic testing under section 6 determines that the man is  
2 the father.

3 (2) An order of filiation entered under subsection (1) ~~shall~~  
4 **must** specify the sum to be paid weekly or otherwise, as prescribed  
5 in section 5 of the support and parenting time enforcement act,  
6 1982 PA 295, MCL 552.605, until the child reaches the age of 18.  
7 Subject to section 5b of the support and parenting time enforcement  
8 act, 1982 PA 295, MCL 552.605b, the court may also order support  
9 for a child after ~~he or she~~ **the child** reaches 18 years of age. In  
10 addition to providing for the support of the child, the order ~~shall~~  
11 **must** also provide for the payment of the necessary expenses  
12 connected to the mother's pregnancy and the birth of the child and  
13 for the funeral expenses if the child has died, as determined by  
14 the court under section 2. A child support obligation is only  
15 retroactive to the date that the paternity complaint was filed  
16 unless any of the following circumstances exist:

17 (a) The defendant was avoiding service of process.

18 (b) The defendant threatened or coerced through domestic  
19 violence or other means the complainant not to file a proceeding  
20 under this act.

21 (c) The defendant otherwise delayed the imposition of a  
22 support obligation.

23 (3) A judgment or order entered under this act providing for  
24 the support of a child or payment of expenses connected to the  
25 mother's pregnancy or the birth of the child is enforceable as  
26 provided in the support and parenting time enforcement act, 1982 PA  
27 295, MCL 552.601 to 552.650. If this act contains a specific  
28 provision regarding the contents or enforcement of a support order  
29 that conflicts with a provision in the support and parenting time



1 enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act  
2 controls in regard to that provision.

3 (4) Upon entry of an order of filiation, the clerk of the  
4 court ~~shall~~**must** collect a fee of \$9.00 for entering the order and  
5 the fee imposed by section 2891(9) (a) of the public health code,  
6 1978 PA 368, MCL 333.2891, from the person against whom the order  
7 of filiation is entered. The clerk ~~shall~~**must** retain the \$9.00 fee  
8 and remit the fee imposed by section 2891(9) (a) of the public  
9 health code, 1978 PA 368, MCL 333.2891, with a written report of  
10 the order of filiation, to the **department** director. ~~of the~~  
11 ~~department of community health.~~ The report ~~shall~~**must** be on a form  
12 prescribed by or in a manner approved by the **department** director.  
13 ~~of the department of community health.~~ Regardless of whether the  
14 fees required by this section are collected, the clerk ~~shall~~**must**  
15 transmit and the department ~~of community health shall~~**must** receive  
16 the report of the order of filiation.

17 (5) If an order of filiation or acknowledgment of parentage is  
18 abrogated by a later judgment or order of a court, the clerk of the  
19 court that entered the order ~~shall~~**must** immediately communicate  
20 that fact to the **department** director ~~of the department of community~~  
21 ~~health~~ on a form prescribed by the **department** director. ~~of the~~  
22 ~~department of community health.~~ An order of filiation supersedes an  
23 acknowledgment of parentage.

24 (6) Within the time prescribed by court rule, the party,  
25 attorney, or agency that secures the signing of an order of  
26 filiation ~~shall~~**must** serve a copy of the order on all parties to  
27 the action and file proof of service with the court clerk.

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

1           Enacting section 2. This amendatory act does not take effect  
2 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5207 (request no.  
3 03362'23 \*) of the 102nd Legislature is enacted into law.