



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 197 (as introduced 2-5-09)
Sponsor: Senator Michelle A. McManus
Committee: Families and Human Services

Date Completed: 2-2-10

CONTENT

The bill would amend the Paternity Act to do the following:

- **Allow a putative father to bring a paternity action.**
- **Provide that a putative father could not bring a paternity action if the mother were married at any time between conception and the child's birth, unless the action was brought within one year after the birth, a biological relationship between the child and the putative father was acknowledged or the mother was legally separated or unmarried around the time of conception, and other conditions were met.**
- **Revise the definition of "child born out of wedlock".**
- **Require a putative father to pay for the genetic testing expenses in an action he filed.**
- **Specify that a judgment in an action brought by a putative father would not relieve a presumed father, or an individual named as a father on a birth certificate, from a child support obligation incurred before the judgment.**

The Act defines "child" as a child born out of wedlock. "Child born out of wedlock" means 1) a child born to a woman who was not married from the conception to the date of the child's birth, or 2) a child whom the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.

In the second category, the bill would refer instead to a child whom the court has determined, *before* an action filed under the Act, to be a child born or conceived during a marriage but not to be the issue of that marriage. The bill also would include in the definition a child whom the court determines, *during* the pendency of a paternity action, to be a child born or conceived during a marriage but not to be the issue of that marriage.

The Act allows a paternity action to be brought in the circuit court by the mother, the father, the Department of Human Services (DHS), or a child who turned 18 years old after August 15, 1984, and before June 2, 1986. The bill would delete that reference to a father, and allow a paternity action to be brought by an individual named as the child's father on a birth certificate or the child's presumed father.

The bill also would allow a putative father to bring a paternity action, unless the child were conceived as a result of acts for which the putative father was convicted of first-, second-, third-, or fourth-degree criminal sexual conduct.

If a child's mother were married at any time from the conception to the date of the birth of the child, a putative father could not bring a paternity action unless it were commenced within one year after the child's birth, one of the following applied, and requirements for an affidavit and notice were met:

- The mother and the putative father mutually acknowledged a biological relationship between the putative father and the child.
- The mother was separated from her husband or was not married at or around the time of conception.
- The mother acknowledged in writing a biological relationship between the putative father and the child.

If the mother and the putative father mutually and openly acknowledged a biological relationship between the putative father and the child, they would have to do all of the following:

- File with the court an affidavit stating that the putative father was the child's biological father.
- File with the court the results of blood or tissue typing or DNA identification profiling that established that the probability of paternity by the putative father was 99% or higher.
- Notify the child's presumed father or an individual named as the child's father on a birth certificate that the affidavit and results had been filed.

If the mother were separated from her husband under an order or judgment entered in an action for separate maintenance or not married at or around the time of conception, the putative father would have to do the following:

- File with the court an affidavit stating that he was the child's biological father and that he consented to DNA identification profiling.
- Notify the child's presumed father or an individual named as the child's father on a birth certificate that the affidavit had been filed.

If the mother acknowledged in writing a biological relationship between the putative father and the child, the putative father would have to meet the two requirements listed above, as well as demonstrate to the court that he had had parenting time with the child by agreement with the mother.

The Act requires a county prosecuting attorney or an attorney employed by a county to initiate and conduct paternity actions if the county DHS office determines that the mother or alleged father has physical possession of the child and is eligible for public assistance or without means to employ an attorney, if the DHS is the complainant, or if the mother, alleged father, or child is receiving services under Part D of Title IV of the Social Security Act (which provides for grants to states for child support enforcement and paternity actions). Under the bill, this requirement would not apply to an action brought by a putative father.

MCL 722.711 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bill Bowerman
David Fosdick

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.