## SUBSTITUTE FOR HOUSE BILL NO. 5825

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 36 of chapter X (MCL 710.36), as amended by 1996 PA 409.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER X 2 Sec. 36. (1) If a child is claimed to be born out of wedlock 3 and the mother executes or proposes to execute a release or consent 4 relinquishing her rights to the child or joins in a petition for 5 adoption filed by her husband, and the release or consent of the 6 natural father cannot be obtained, the judge shall hold a hearing as soon as practical to determine whether the child was born out of 7 8 wedlock, to determine the identity of the father, and to determine

- 1 or terminate the rights of the father as provided in this section
- 2 and sections 37 and 39 of this chapter.
- 3 (2) Proof of service of a notice of intent to release or
- 4 consent or the putative father's verified acknowledgment of notice
- 5 of intent to release or consent shall be filed with the court, if
- 6 the notice was given to the putative father. The court shall
- 7 request the vital records division of the department of public
- 8 COMMUNITY health to send to the court a copy of any notice of
- 9 intent to claim paternity of the particular child which THAT the
- 10 division has received.
- 11 (3) Notice of the hearing shall be served upon the following:
- 12 (a) A putative father who has timely filed a notice of intent
- 13 to claim paternity as provided in section 33 or 34 of this chapter.
- 14 (b) A putative father who was not served a notice of intent to
- 15 release or consent at least 30 days before the expected date of
- 16 confinement specified in the notice of intent to release or
- 17 consent.
- 18 (c) Any other male who was not served pursuant ACCORDING to
- 19 section 34(1) of this chapter with a notice of intent to release or
- 20 consent and who the court has reason to believe may be the CHILD'S
- 21 father. of the child.
- 22 (4) The notice of hearing shall inform the putative father
- 23 that his failure to appear at the hearing shall constitute
- 24 CONSTITUTES a denial of his interest in custody of the child, which
- 25 denial shall result in the court's termination of his rights to the
- 26 child.
- 27 (5) Proof of service of the notice of hearing required by

- 1 subsection (3) shall be filed with the court. A verified
- 2 acknowledgment of service by the party to be served is proof of
- 3 personal service. Notice of the hearing shall—IS not be—required if
- 4 the putative father is present at the hearing. A waiver of notice
- 5 of hearing by a person entitled to receive it is sufficient.
- 6 (6) The court shall receive evidence as to the identity of the
- 7 father of the child. THE COURT SHALL RECEIVE IN LIEU OF THE
- 8 MOTHER'S LIVE TESTIMONY AN AFFIDAVIT OR A VERIFIED WRITTEN
- 9 DECLARATION FROM THE MOTHER AS EVIDENCE OF THE IDENTITY AND
- 10 WHEREABOUTS OF THE CHILD'S FATHER. IF THE COURT DETERMINES THAT THE
- 11 AFFIDAVIT OR VERIFIED WRITTEN DECLARATION IS INSUFFICIENT, THE
- 12 COURT SHALL ALLOW AMENDMENT OF THE AFFIDAVIT OR VERIFIED WRITTEN
- 13 DECLARATION. Based upon the evidence received, the court shall
- 14 enter a finding identifying the father or declaring that the
- 15 identity of the father cannot be determined.
- 16 (7) If the court finds that the CHILD'S father of the child is
- 17 a person who did not receive either a timely notice of intent to
- 18 release or consent pursuant—ACCORDING to section 34(1) of this
- 19 chapter or a notice required pursuant to UNDER subsection (3) and
- 20 who has neither waived his right to notice of hearing nor is
- 21 present at the hearing, the court shall adjourn further proceedings
- 22 until that person is served with a notice of hearing.
- 23 Enacting section 1. This amendatory act takes effect 90 days
- 24 after the date it is enacted into law.