

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 595

A bill to amend 1956 PA 205, entitled
"The paternity act,"
by amending sections 1, 6, and 6a (MCL 722.711, 722.716, and
722.716a), section 1 as amended by 1999 PA 157 and section 6 as
amended and section 6a as added by 1998 PA 113.

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
4 date of birth of the child, or a child that the court has deter-
5 mined to be a child born or conceived during a marriage but not
6 the issue of that marriage.

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

8 (c) "Mother" means the mother of a child born out of
9 wedlock.

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1 (d) "Court" means the circuit court.

2 (E) "DNA IDENTIFICATION PROFILE" MEANS THE RESULTS OF THE
3 DNA IDENTIFICATION PROFILING OF GENETIC TESTING MATERIAL.

4 (F) "DNA IDENTIFICATION PROFILING" MEANS A VALIDATED SCIEN-
5 TIFIC METHOD OF ANALYZING COMPONENTS OF DEOXYRIBONUCLEIC ACID
6 MOLECULES IN A SAMPLE OF GENETIC TESTING MATERIAL TO IDENTIFY THE
7 PATTERN OF THE COMPONENTS' CHEMICAL STRUCTURE THAT IS UNIQUE TO
8 THE INDIVIDUAL.

9 (G) ~~(e)~~ "State disbursement unit" or "SDU" means the
10 entity established in section 6 of the office of child support
11 act, 1971 PA 174, MCL 400.236.

12 (H) ~~(f)~~ ~~"Testing"~~ "GENETIC TESTING material" means ~~any~~
13 ~~substance or information~~ A SAMPLE OF AN INDIVIDUAL'S BLOOD,
14 SALIVA, OR TISSUE COLLECTED FROM THE INDIVIDUAL THAT IS used for
15 ~~or produced by~~ genetic paternity testing conducted under this
16 act. ~~other than a report submitted to a court for a paternity~~
17 ~~determination.~~

18 (I) "SUMMARY REPORT" MEANS A WRITTEN SUMMARY OF THE DNA
19 IDENTIFICATION PROFILE THAT INCLUDES ONLY THE FOLLOWING
20 INFORMATION:

21 (i) THE COURT CASE NUMBER, IF APPLICABLE, THE LABORATORY
22 CASE NUMBER OR IDENTIFICATION NUMBER, AND THE FAMILY INDEPENDENCE
23 AGENCY CASE NUMBER.

24 (ii) THE MOTHER'S NAME AND RACE.

25 (iii) THE CHILD'S NAME.

26 (iv) THE ALLEGED FATHER'S NAME AND RACE.

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1 (v) THE COLLECTION DATES AND IDENTIFICATION NUMBERS OF THE
2 GENETIC TESTING MATERIAL.

3 (vi) THE CUMULATIVE PATERNITY INDEX.

4 (vii) THE PROBABILITY OF PATERNITY.

5 (viii) THE CONCLUSION AS TO WHETHER THE ALLEGED FATHER CAN
6 OR CANNOT BE EXCLUDED AS THE BIOLOGICAL FATHER.

7 (ix) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE CON-
8 TRACTING LABORATORY.

9 (x) THE NAME OF THE INDIVIDUAL CERTIFYING THE REPORT.

10 Sec. 6. (1) In a proceeding under this act before trial,
11 the court, upon application made by or on behalf of either party,
12 or on its own motion, shall order that the mother, child, and
13 alleged father submit to blood or tissue typing determinations,
14 which may include, but are not limited to, determinations of red
15 cell antigens, red cell isoenzymes, human leukocyte antigens,
16 serum proteins, or DNA ~~profiles~~ IDENTIFICATION PROFILING, to
17 determine whether the alleged father is likely to be, or is not,
18 the father of the child. If the court orders a blood or tissue
19 typing or DNA ~~profile determination~~ IDENTIFICATION PROFILING to
20 be conducted and a party refuses to submit to the typing or DNA
21 ~~profile determination~~ IDENTIFICATION PROFILING, in addition to
22 any other remedies available, the court may do either of the
23 following:

24 (a) Enter a default judgment at the request of the appropri-
25 ate party.

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1 (b) If a trial is held, allow the disclosure of the fact of
2 the refusal unless good cause is shown for not disclosing the
3 fact of refusal.

4 (2) A blood or tissue typing or DNA ~~profile determination~~
5 IDENTIFICATION PROFILING shall be conducted by a person accredi-
6 ted for paternity determinations by a nationally recognized sci-
7 entific organization, including, but not limited to, the American
8 association of blood banks.

9 (3) The court shall fix the compensation of an expert at a
10 reasonable amount and may direct the compensation to be paid by
11 the county or by any other party to the case, or by both in the
12 proportions and at the times the court prescribes. Before blood
13 or tissue typing or ~~a DNA profile determination~~
14 IDENTIFICATION PROFILING is conducted, the court may order a part
15 or all of the compensation paid in advance. If the family inde-
16 pendence agency paid for the genetic testing expenses, the court
17 may order repayment by the alleged father if the court declares
18 paternity. Documentation of the genetic testing expenses is
19 admissible as evidence of the amount, which evidence constitutes
20 prima facie evidence of the amount of those expenses without
21 third party foundation testimony.

22 (4) ~~The~~ SUBJECT TO SUBSECTION (5), THE result of blood or
23 tissue typing or a DNA IDENTIFICATION profile ~~determination and,~~
24 ~~if a determination of exclusion of paternity cannot be made, a~~
25 ~~written report including, but not limited to, a calculation of~~
26 ~~the probability of paternity shall be filed with the court and~~
27 THE SUMMARY REPORT SHALL BE served on the mother and alleged

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1 father. THE SUMMARY REPORT SHALL BE FILED WITH THE COURT.
2 Objection to the ~~result~~ DNA IDENTIFICATION PROFILE or SUMMARY
3 report is waived unless made in writing, setting forth the spe-
4 cific basis for the objection, within 14 calendar days after
5 service on the mother and alleged father. The court shall not
6 schedule a trial on the issue of paternity until after the expi-
7 ration of the 14-day period. If an objection is not filed, the
8 court shall admit in proceedings under this act the result of the
9 blood or tissue typing or the DNA IDENTIFICATION profile and the
10 ~~written~~ SUMMARY report without requiring foundation testimony
11 or other proof of authenticity or accuracy. If an objection is
12 filed within the 14-day period, on the motion of either party,
13 the court shall hold a hearing to determine the admissibility of
14 the ~~result~~ DNA IDENTIFICATION PROFILE or ~~written~~ SUMMARY
15 report. The objecting party has the burden of proving by clear
16 and convincing evidence by a qualified person described in
17 subsection (2) that foundation testimony or other proof of
18 authenticity or accuracy is necessary for admission of the
19 ~~result~~ DNA IDENTIFICATION PROFILE or ~~written~~ SUMMARY report.

20 (5) If the probability of paternity determined by the quali-
21 fied person described in subsection (2) CONDUCTING THE BLOOD OR
22 TISSUE TYPING OR DNA IDENTIFICATION PROFILING is 99% or higher,
23 and the ~~result~~ DNA IDENTIFICATION PROFILE and SUMMARY report
24 are admissible as provided in subsection (4), paternity ~~shall~~
25 ~~be~~ IS presumed. ~~If 2 or more persons are determined to have a~~
26 ~~probability of paternity of 99% or higher, paternity shall be~~
27 ~~presumed for the person with the highest probability.~~ IF THE

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1 RESULTS OF THE ANALYSIS OF GENETIC TESTING MATERIAL FROM 2 OR
2 MORE PERSONS INDICATE A PROBABILITY OF PATERNITY GREATER THAN
3 99%, THE CONTRACTING LABORATORY SHALL CONDUCT ADDITIONAL GENETIC
4 PATERNITY TESTING UNTIL ALL BUT 1 OF THE PUTATIVE FATHERS IS
5 ELIMINATED, UNLESS THE DISPUTE INVOLVES 2 OR MORE PUTATIVE
6 FATHERS WHO HAVE IDENTICAL DNA.

7 (6) Upon the establishment of the presumption of paternity
8 as provided in subsection (5), either party may move for summary
9 disposition under the court rules. ~~Nothing in this section~~
10 ~~abrogates~~ THIS SECTION DOES NOT ABROGATE the right of either
11 party to child support from the date of birth of the child if
12 applicable under section 7.

13 ~~(7) As used in this section, "DNA profile" means the pat-~~
14 ~~terns of fragments of deoxyribonucleic acid used both to identify~~
15 ~~individuals and to study the relatedness of individuals.~~

16 Sec. 6a. (1) Except as authorized under this act, a person
17 shall not disclose information obtained from genetic paternity
18 testing that is authorized under this act.

19 (2) If an alleged father who is tested as part of an action
20 under this act is found to be the child's father, the contracting
21 laboratory shall retain the genetic testing material of the
22 alleged father, mother, and child for no longer than the period
23 of years prescribed by the national standards under which the
24 laboratory is accredited. If a man is found not to be the
25 child's father, the ~~court shall order~~ CONTRACTING LABORATORY
26 SHALL DESTROY the man's genetic testing material ~~to be~~
27 ~~destroyed~~ after ~~its use~~ IT IS USED in the paternity action,

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1 ~~and~~ IN COMPLIANCE WITH SECTION 13811 OF THE PUBLIC HEALTH CODE,
2 1978 PA 368, MCL 333.13811, AND IN THE PRESENCE OF A WITNESS.
3 THE WITNESS MAY BE AN INDIVIDUAL WHO IS A PARTY TO THE DESTRUC-
4 TION OF THE GENETIC TESTING MATERIAL. AFTER THE MAN'S GENETIC
5 TESTING MATERIAL IS DESTROYED, THE CONTRACTING LABORATORY SHALL
6 MAKE AND KEEP A WRITTEN RECORD OF THE DESTRUCTION AND HAVE THE
7 INDIVIDUAL WHO WITNESSED THE DESTRUCTION SIGN THE RECORD. THE
8 CONTRACTING LABORATORY SHALL ALSO EXPUNGE THE CONTRACTING
9 LABORATORY'S RECORDS REGARDING THE GENETIC PATERNITY TESTING PER-
10 FORMED ON THE GENETIC TESTING MATERIAL IN ACCORDANCE WITH THE
11 NATIONAL STANDARDS UNDER WHICH THE LABORATORY IS ACCREDITED. THE
12 CONTRACTING LABORATORY SHALL RETAIN the genetic testing material
13 of the mother and child ~~to be retained~~ for no longer than the
14 period of years prescribed by the national standards under which
15 the laboratory is accredited. ~~A~~ AFTER A contracting laboratory
16 ~~shall destroy~~ DESTROYS an individual's GENETIC testing material
17 as provided in this subsection, ~~and~~ IT shall notify the adult
18 individual, or the parent or legal guardian of a minor individu-
19 al, by certified mail that the GENETIC testing material was
20 destroyed.

21 (3) A contracting laboratory, the family independence agency
22 or its designee, or another entity involved with the genetic
23 paternity testing are all required to protect the confidentiality
24 of GENETIC testing material, except as required for a paternity
25 determination under this act. The court, its officers, and the
26 family independence agency shall not use or disclose GENETIC

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1 testing material for a purpose other than the paternity
2 determination as authorized by this act.

3 (4) A person shall not sell, transfer, or offer GENETIC
4 testing material obtained under this act except as authorized by
5 this act.

6 (5) A CONTRACTING LABORATORY SHALL ANNUALLY CAUSE TO BE CON-
7 DUCTED AN INDEPENDENT AUDIT VERIFYING THE CONTRACTING
8 LABORATORY'S COMPLIANCE WITH THIS SECTION AND SECTION 6. THE
9 AUDIT SHALL NOT DISCLOSE THE NAMES OF, OR OTHERWISE IDENTIFY, THE
10 TEST SUBJECTS REQUIRED TO SUBMIT TO BLOOD OR TISSUE TYPING OR DNA
11 IDENTIFICATION PROFILING UNDER SECTION 6 DURING THE PREVIOUS
12 YEAR. THE CONTRACTING LABORATORY SHALL FORWARD THE AUDIT TO THE
13 DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.

14 (6) ~~(5)~~ A violation of this section is a misdemeanor pun-
15 ishable by a fine of not more than \$5,000.00. A second or subse-
16 quent violation of this section is a misdemeanor punishable by
17 imprisonment for not more than 1 year or a fine of not more than
18 \$10,000.00, or both.