

Act No. 31  
Public Acts of 2000  
Approved by the Governor  
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**STATE OF MICHIGAN  
90TH LEGISLATURE  
REGULAR SESSION OF 2000**

Introduced by Senators Gougeon, Schwarz, Hammerstrom, Shugars, Goschka, Johnson, Sikkema and McCotter

# ENROLLED SENATE BILL No. 595

AN ACT to amend 1956 PA 205, entitled "An act to confer upon circuit courts jurisdiction over proceedings to compel and provide support of children born out of wedlock; to prescribe the procedure for determination of such liability; to authorize agreements providing for furnishing of such support and to provide for the enforcement thereof; and to prescribe penalties for the violation of certain provisions of this 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:*

Sec. 1. As used in this act:

(a) "Child born out of wedlock" means a child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.

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

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

(d) "Court" means the circuit court.

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

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

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

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

(i) "Summary report" means a written summary of the DNA identification profile that includes only the following information:

(i) The court case number, if applicable, the laboratory case number or identification number, and the family independence agency case number.

(ii) The mother's name and race.

(iii) The child's name.

- (iv) The alleged father's name and race.
- (v) The collection dates and identification numbers of the genetic testing material.
- (vi) The cumulative paternity index.
- (vii) The probability of paternity.
- (viii) The conclusion as to whether the alleged father can or cannot be excluded as the biological father.
- (ix) The name, address, and telephone number of the contracting laboratory.
- (x) The name of the individual certifying the report.

Sec. 6. (1) In a proceeding under this act before trial, the court, upon application made by or on behalf of either party, or on its own motion, shall order that the mother, child, and alleged father submit to blood or tissue typing determinations, which may include, but are not limited to, determinations of red cell antigens, red cell isoenzymes, human leukocyte antigens, serum proteins, or DNA identification profiling, to determine whether the alleged father is likely to be, or is not, the father of the child. If the court orders a blood or tissue typing or DNA identification profiling to be conducted and a party refuses to submit to the typing or DNA identification profiling, in addition to any other remedies available, the court may do either of the following:

(a) Enter a default judgment at the request of the appropriate party.

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

(2) A blood or tissue typing or DNA identification profiling shall be conducted by a person accredited for paternity determinations by a nationally recognized scientific organization, including, but not limited to, the American association of blood banks.

(3) The court shall fix the compensation of an expert at a reasonable amount and may direct the compensation to be paid by the county or by any other party to the case, or by both in the proportions and at the times the court prescribes. Before blood or tissue typing or DNA identification profiling is conducted, the court may order a part or all of the compensation paid in advance. If the family independence agency paid for the genetic testing expenses, the court may order repayment by the alleged father if the court declares paternity. Documentation of the genetic testing expenses is admissible as evidence of the amount, which evidence constitutes prima facie evidence of the amount of those expenses without third party foundation testimony.

(4) Subject to subsection (5), the result of blood or tissue typing or a DNA identification profile and the summary report shall be served on the mother and alleged father. The summary report shall be filed with the court. Objection to the DNA identification profile or summary report is waived unless made in writing, setting forth the specific basis for the objection, within 14 calendar days after service on the mother and alleged father. The court shall not schedule a trial on the issue of paternity until after the expiration of the 14-day period. If an objection is not filed, the court shall admit in proceedings under this act the result of the blood or tissue typing or the DNA identification profile and the summary report without requiring foundation testimony or other proof of authenticity or accuracy. If an objection is filed within the 14-day period, on the motion of either party, the court shall hold a hearing to determine the admissibility of the DNA identification profile or summary report. The objecting party has the burden of proving by clear and convincing evidence by a qualified person described in subsection (2) that foundation testimony or other proof of authenticity or accuracy is necessary for admission of the DNA identification profile or summary report.

(5) If the probability of paternity determined by the qualified person described in subsection (2) conducting the blood or tissue typing or DNA identification profiling is 99% or higher, and the DNA identification profile and summary report are admissible as provided in subsection (4), paternity is presumed. If the results of the analysis of genetic testing material from 2 or more persons indicate a probability of paternity greater than 99%, the contracting laboratory shall conduct additional genetic paternity testing until all but 1 of the putative fathers is eliminated, unless the dispute involves 2 or more putative fathers who have identical DNA.

(6) Upon the establishment of the presumption of paternity as provided in subsection (5), either party may move for summary disposition under the court rules. This section does not abrogate the right of either party to child support from the date of birth of the child if applicable under section 7.

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

(2) If an alleged father who is tested as part of an action under this act is found to be the child's father, the contracting laboratory shall retain the genetic testing material of the alleged father, mother, and child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. If a man is found not to be the child's father, the contracting laboratory shall destroy the man's genetic testing material after it is used in the paternity action, in compliance with section 13811 of the public health code, 1978 PA 368, MCL 333.13811, and in the presence of a witness. The witness may be an individual who is a party to the destruction of the genetic testing material.

After the man's genetic testing material is destroyed, the contracting laboratory shall make and keep a written record of the destruction and have the individual who witnessed the destruction sign the record. The contracting laboratory shall also expunge the contracting laboratory's records regarding the genetic paternity testing performed on the genetic testing material in accordance with the national standards under which the laboratory is accredited. The contracting laboratory shall retain the genetic testing material of the mother and child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. After a contracting laboratory destroys an individual's genetic testing material as provided in this subsection, it shall notify the adult individual, or the parent or legal guardian of a minor individual, by certified mail that the genetic testing material was destroyed.

(3) A contracting laboratory, the family independence agency or its designee, or another entity involved with the genetic paternity testing are all required to protect the confidentiality of genetic testing material, except as required for a paternity determination under this act. The court, its officers, and the family independence agency shall not use or disclose genetic testing material for a purpose other than the paternity determination as authorized by this act.

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

(5) A contracting laboratory shall annually cause to be conducted an independent audit verifying the contracting laboratory's compliance with this section and section 6. The audit shall not disclose the names of, or otherwise identify, the test subjects required to submit to blood or tissue typing or DNA identification profiling under section 6 during the previous year. The contracting laboratory shall forward the audit to the department of consumer and industry services.

(6) A violation of this section is a misdemeanor punishable by a fine of not more than \$5,000.00. A second or subsequent violation of this section is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Jay E. Randall*

Clerk of the House of Representatives.

Approved \_\_\_\_\_

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Governor.