

# HOUSE BILL No. 6297

September 17, 2002, Introduced by Rep. Wojno and referred to the Committee on Family and Children Services.

A bill to amend 1956 PA 205, entitled "The paternity act," by amending sections 4, 7b, 8, 9, 19, and 19a (MCL 722.714, 722.717b, 722.718, 722.719, 722.729, and 722.729a), sections 4 and 9 as amended by 1998 PA 113, section 7b as amended by 1996 PA 308, and sections 8 and 19 as amended and section 19a as added by 1999 PA 157.

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

HOUSE BILL No. 6297

1           Sec. 4. (1) An action under this act shall be brought in  
2 the circuit court by the mother, the father, a child who became  
3 18 years of age after August 15, 1984 and before June 2, 1986, or  
4 the family independence agency as provided in this act. The  
5 Michigan court rules for civil actions apply to all proceedings  
6 under this act. A complaint shall be filed in the county where  
7 the mother or child resides. If both the mother and child reside

1 outside of this state, then the complaint shall be filed in the  
2 county where the putative father resides or is found. The fact  
3 that the child was conceived or born outside of this state is not  
4 a bar to entering a complaint against the putative father.

5 (2) An action to determine paternity shall not be brought  
6 under this act if the child's father acknowledges paternity under  
7 the acknowledgment of parentage act, or if the child's paternity  
8 is established under the law of another state.

9 (3) An action under this act may be commenced during the  
10 pregnancy of the child's mother or at any time before the child  
11 reaches 18 years of age. For a child who became 18 years of age  
12 after August 15, 1984 and before June 2, 1986, an action under  
13 this act may be commenced before January 1, 1995. This subsec-  
14 tion applies regardless of whether the cause of action accrued  
15 before June 1, 1986 and regardless of whether the cause of action  
16 was barred under this subsection before June 1, 1986. A summons  
17 issued under this section shall be in the form the court deter-  
18 mines and shall be served in the same manner as is provided by  
19 court rules for the service of process in civil actions.

20 (4) If the county family independence agency of the county  
21 in which the mother or alleged father resides first determines  
22 that she or he has physical possession of the child and is eligi-  
23 ble for public assistance or without means to employ an attorney;  
24 if the family independence agency is the complainant; ~~of~~ OR if  
25 the mother, alleged father, or child is receiving services under  
26 part D of title IV of the social security act, CHAPTER 531, 49  
27 STAT. 620, 42 U.S.C. 651 to ~~667~~ 655, 656 TO 657, 686a TO 660,

1 AND 663 TO 669b, then the prosecuting attorney or an attorney  
2 employed by the county under section 1 of 1941 PA 15, MCL 49.71,  
3 shall initiate and conduct proceedings under this act. The pros-  
4 ecuting attorney shall utilize the child support formula devel-  
5 oped under section 19 of the friend of the ~~court~~ CHILD act,  
6 1982 PA 294, MCL 552.519, as a guideline in petitioning for child  
7 support. A complaint filed under this act shall be verified by  
8 oath or affirmation.

9 (5) The party filing the complaint shall name the person  
10 believed to be the father of the child and state in the complaint  
11 the time and place, as near as possible, when and where the  
12 mother became pregnant. If the family independence agency is the  
13 plaintiff, the required facts shall be stated upon information  
14 and belief.

15 (6) Upon the filing of a complaint, the court shall issue a  
16 summons against the named defendant. If the defendant does not  
17 file and serve a responsive pleading as required by the court  
18 rules, the court may enter a default judgment. Neither party is  
19 required to testify before entry of a default judgment in a pro-  
20 ceeding under this act.

21 (7) If, after service of process, the parties fail to con-  
22 sent to an order naming the man as the child's father as provided  
23 in this act within the time permitted for a responsive pleading,  
24 then the family independence agency or its designee may file and  
25 serve both the mother and the alleged father with a notice  
26 requiring that the mother, alleged father, and child appear for  
27 genetic paternity testing as provided in section 6.

1           (8) If the mother, alleged father, or child does not appear  
2 for genetic paternity testing as provided in subsection (7), then  
3 the family independence agency 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           (9) It is unnecessary in any proceedings under this act com-  
8 menced by or against a minor to have a next friend or guardian ad  
9 litem appointed for the minor unless required by the circuit  
10 judge. A minor may prosecute or defend any proceedings in the  
11 same manner and with the same effect as if he or she were of  
12 legal age.

13           (10) If a child born out of wedlock is being supported in  
14 whole or in part by public assistance, including medical assist-  
15 ance, the family independence agency may file a complaint on  
16 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  
18 shall be made a party plaintiff and notified of the hearing on  
19 the complaint by summons. The complaint made by the family inde-  
20 pendence agency shall be verified by the director of the family  
21 independence agency, or his or her designated representative, or  
22 by the director of the county family independence agency of the  
23 county in which an action is brought, or the county director's  
24 designated representative.

25           (11) 1986 PA 107, which added this subsection, does not  
26 affect the rights of an indigent defendant in proceedings under

1 this act as established by decisions of the courts of this state  
2 before June 1, 1986.

3 (12) If a determination of paternity is made under this act,  
4 the court may enter an order of filiation as provided in section  
5 7. Regardless of who commences an action under this act, an  
6 order of filiation entered under this act has the same effect, is  
7 subject to the same provisions, and is enforced in the same  
8 manner as an order of filiation entered on complaint of the  
9 mother or father.

10 Sec. 7b. If the court makes a determination of paternity  
11 and there is no dispute regarding custody, the court shall  
12 include in the order of filiation specific provisions for the  
13 custody and parenting time of the child as provided in the child  
14 custody act of 1970, ~~Act No. 91 of the Public Acts of 1970,~~  
15 ~~being sections 722.21 to 722.29 of the Michigan Compiled Laws~~  
16 1970 PA 91, MCL 722.21 TO 722.31. If there is a dispute between  
17 the parties concerning custody or parenting time, the court shall  
18 immediately enter an order that establishes support and temporar-  
19 ily establishes custody of and parenting time with the child.  
20 Pending a hearing on or other resolution of the dispute, the  
21 court may also refer the matter to the friend of the ~~court~~  
22 CHILD for a report and recommendation as provided in section 5 of  
23 the friend of the ~~court~~ CHILD act, ~~Act No. 294 of the Public~~  
24 ~~Acts of 1982, being section 552.505 of the Michigan Compiled~~  
25 ~~Laws~~ 1982 PA 294, MCL 552.505. In a dispute regarding custody  
26 or parenting time, the prosecuting attorney, an attorney  
27 appointed by the county, or an attorney appointed by the court

1 under section 4 shall not be required to represent either party  
2 regarding that dispute.

3       Sec. 8. The court shall require the payment of money to be  
4 made to the friend of the ~~court~~ CHILD, clerk of the court, or  
5 state disbursement unit, which money shall be disbursed in  
6 accordance with the order of the court, except that upon certifi-  
7 cation by a county family independence agency that a complainant  
8 is receiving public assistance, a payment received by the friend  
9 of the ~~court~~ CHILD for support and education of a child born  
10 out of wedlock shall be transmitted to the family independence  
11 agency.

12       Sec. 9. (1) The person so adjudged to be the father of the  
13 child may be required to give bond with 1 or more sufficient  
14 sureties to the satisfaction of the court, to perform the order  
15 of the court, and to indemnify the county that is chargeable with  
16 the confinement expenses and with the maintenance of the child.  
17 The bond shall be filed with the friend of the ~~court~~ CHILD or  
18 the clerk of the court. If on the trial he is adjudged not to be  
19 the father of the child, the court shall dismiss the complaint;  
20 and the judgment of the court is final.

21       (2) If default is made in the payment of an installment or a  
22 part of the installment, mentioned in the bond filed under sub-  
23 section (1), the judge of the court in which the bond is filed,  
24 at the request of the mother, guardian, or any other person  
25 interested in the support of the child, shall issue a citation to  
26 the principal and sureties in the bond requiring them to appear  
27 on a day specified in the citation, and show cause why execution

1 shall not issue against them for the amount of the installment  
2 due and unpaid on the bond. The citation shall be served by the  
3 sheriff of any county in which the principal or sureties reside  
4 or may be found. If the amount due on the installment is not  
5 paid on or before the time mentioned for showing cause, the judge  
6 shall render judgment in favor of the complainant against the  
7 principal and sureties who have been served with the citation,  
8 for the amount unpaid on the installment due on the bond.

9 Execution shall issue from the court against the goods and chat-  
10 tels of the person or persons against whom the judgment is  
11 rendered for the amount of the judgment and costs to the sheriff  
12 of any county in the state where a party to the judgment resides  
13 or has property subject to the execution.

14 (3) The judge, in case of default in the payment, when due,  
15 of any installment or any part of the installment or in the con-  
16 dition of the bond, may adjudge the reputed father guilty of con-  
17 tempt of court as provided in sections 31 to 39 of the support  
18 and parenting time enforcement act, 1982 PA 295, MCL 552.631 to  
19 552.639. The commitment of the reputed father under sections 31  
20 to 39 of the support and parenting time enforcement act, 1982 PA  
21 295, MCL 552.631 to 552.639, does not operate to stay or defeat  
22 the obtaining of judgment and the collection of the judgment by  
23 execution. The rendition and the enforcement of decree or judg-  
24 ment does not bar or hinder the taking of similar proceedings for  
25 subsequent defaults.

26 (4) In order to make effective the purpose and intention of  
27 the bonds required under subsection (1), the court may appoint a

1 receiver of the real and personal property belonging to the  
2 judgment debtors with powers not exceeding those customarily  
3 exercised by receivers.

4       Sec. 19. (1) To reimburse the county for the cost of  
5 enforcing support or parenting time orders under this act, the  
6 court shall order the payment of \$2.00 per month, payable semian-  
7 nually on each January 2 and July 2, to the friend of the ~~court~~  
8 CHILD or state disbursement unit. The service fee shall be paid  
9 by the person ordered to pay the support money. The service fee  
10 shall be computed from the beginning date of the support order  
11 and shall continue while the support order is operative. The  
12 service fee shall be paid 6 months in advance on each due date,  
13 except for the first payment, which shall be paid at the same  
14 time the support order is filed and covers the period of time  
15 from that month until the next calendar due date. An order or  
16 judgment for the payment of support money shall provide for the  
17 payment of the service fee. Upon its own motion, the court may  
18 amend an order or judgment for the payment of support money to  
19 provide for the payment of the service fee in the amount provided  
20 by this subsection, upon proper notice to the person ordered to  
21 pay the support money. The service fees shall be turned over to  
22 the county treasurer and credited to the general fund of the  
23 county.

24       (2) The court may hold in contempt a person who fails or  
25 refuses to pay a service fee ordered under subsection (1).

26       Sec. 19a. The department, the SDU, and each office of the  
27 friend of the ~~court~~ CHILD shall cooperate in the transition to



1 the centralized receipt and disbursement of support and fees. An  
2 office of the friend of the ~~court~~ CHILD shall continue to  
3 receive and disburse support and fees through the transition,  
4 based on the schedule developed as required by section ~~6~~ 7 of  
5 the office of child support act, 1971 PA 174, MCL ~~400.236~~  
6 400.237, and modifications to that schedule as the department  
7 considers necessary.

8 Enacting section 1. This amendatory act does not take  
9 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 6317  
10 (request no. 07684'02) of the 91st Legislature is enacted into  
11 law.