

HOUSE BILL No. 5993

April 16, 2008, Introduced by Reps. Simpson, Johnson, Condino, Bieda, Donigan, Vagnozzi, Leland, Jackson, Cushingberry, Hammon and Clack and referred to the Committee on Judiciary.

A bill to amend 1996 PA 305, entitled
"Acknowledgment of parentage act,"
by amending section 11 (MCL 722.1011).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) The mother or the man who signed the
2 acknowledgment, the child who is the subject of the acknowledgment,
3 **A MAN WHO IS SHOWN BY BLOOD OR GENETIC TESTING TO BE THE FATHER OF**
4 **THE CHILD**, or a prosecuting attorney may file a claim for
5 revocation of an acknowledgment of parentage. If filed as an
6 original action, the claim shall be filed in the circuit court of
7 the county where either the mother or man resides. If neither of
8 those parties lives in this state, the claim shall be filed in the
9 county where the child resides. A claim for revocation may be filed

1 as a motion in an existing action for child support, custody, or
2 parenting time in the county where the action is, ~~and~~**IN WHICH CASE**
3 all provisions in this act apply as if it were an original action.

4 (2) A claim for revocation shall be supported by an affidavit
5 signed by the claimant setting forth facts that constitute 1 of the
6 following:

7 (a) Mistake of fact.

8 (b) Newly discovered evidence that by due diligence could not
9 have been found before the acknowledgment was signed.

10 (c) Fraud.

11 (d) Misrepresentation or misconduct.

12 (e) Duress in signing the acknowledgment.

13 (3) If the court finds that the affidavit is sufficient, the
14 court may order blood or genetic tests at the expense of the
15 claimant, or may take other action the court considers appropriate.
16 The party filing the claim for revocation has the burden of
17 proving, by clear and convincing evidence, that the man is not the
18 father and that, considering the equities of the case, revocation
19 of the acknowledgment is proper.

20 (4) A copy of the order of revocation shall be forwarded by
21 the clerk of the court to the state registrar. The state registrar
22 shall vacate the acknowledgment and may amend the birth certificate
23 as prescribed by the order of revocation.

24 **(5) IF THE PROSECUTING ATTORNEY IS PRESENTED WITH CLEAR AND**
25 **CONVINCING EVIDENCE THAT A MAN OTHER THAN THE MAN IDENTIFIED AS THE**
26 **FATHER IN AN ACKNOWLEDGMENT UNDER THIS ACT IS THE FATHER OF THE**
27 **CHILD WHO IS THE SUBJECT OF THE ACKNOWLEDGMENT AND THAT THE**

1 ACKNOWLEDGMENT OF PARENTAGE IS INCORRECT, THE PROSECUTING ATTORNEY
2 SHALL FILE AND PURSUE A CLAIM FOR REVOCATION UNDER THIS SECTION.
3 BLOOD OR GENETIC TESTS THAT SHOW THAT THE MAN WHO IS NOT IDENTIFIED
4 AS THE FATHER IN THE ACKNOWLEDGMENT OF PATERNITY IS THE FATHER OF
5 THE CHILD CONSTITUTE CLEAR AND CONVINCING EVIDENCE UNDER THIS
6 SUBSECTION.

7 (6) ~~(5)~~—Whether the claim for revocation under this act arises
8 as an original action or as a motion in another action, **EXCEPT AS**
9 **PROVIDED IN SUBSECTION (5)**, the prosecuting attorney, an attorney
10 appointed by the county, or an attorney appointed by the court is
11 not required to represent either party regarding the claim for
12 revocation.