

# Legislative Analysis



## ESTABLISH PATERNITY OF CHILD BORN TO MARRIED MOTHER & NON-HUSBAND

Mary Ann Cleary, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4067**

**Sponsor: Rep. Matt Lori**

**Committee: Families, Children, and Seniors**

**Complete to 1-17-12**

### A SUMMARY OF HOUSE BILL 4067 AS INTRODUCED 1-13-11

The bill would amend the Paternity Act to do the following:

- Allow a putative father to bring a paternity action.
- Provide that a putative father could not bring a paternity action if the mother were married at any time between conception and the child's birth, unless the action was brought within one year after the birth, a biological relationship between the child and the putative father was acknowledged or the mother was legally separated or unmarried around the time of conception, and other conditions were met.
- Require a putative father to pay for the genetic testing expenses in an action he filed.
- Specify that a judgment in an action brought by a putative father would not relieve a presumed father, or an individual named as a father on a birth certificate, from a child support obligation incurred before the judgment.
- Revise the definition of "child born out of wedlock."

#### Who Could Bring Action

Currently, an action under the act must be brought in circuit court by the mother; the father; a child who turned 18 after August 15, 1984, and before June 2, 1986; or the Department of Human Services (the act refers to an earlier name for that agency). The bill would allow an action to be brought by the DHS; the mother; an individual named as the child's father on a certificate of birth or the child's presumed father; or a putative father. However, a putative father could not bring an action if the child is conceived as the result of acts for which he was convicted of criminal sexual conduct, as that term is defined in the Michigan Penal Code.

#### Married Mother/Putative Father

If the mother was married at any time from the conception to the date of birth of the child, the putative father could not bring an action unless the action is commenced within one year after the birth of the child and unless one or more of the following apply:

- (1) The mother and the putative father mutually and openly acknowledge a biological relationship between the putative father and the child by doing all of the following.

- Filing with the court an affidavit stating the putative father is the biological father.
- Filing with the court the result of blood or tissue typing or DNA identification profiling that establish that the probability of paternity by the putative father is 99% or higher.
- Notifying the appropriate individuals that the affidavit and results have been filed.

(2) All the following apply:

- The mother was separated from her husband under an order or judgment entered in an action for separate maintenance or was not married at or around the time of conception.
- The putative father files with the court an affidavit stating that he is the biological father of the child and that he consents to DNA identification profiling.
- The putative father notifies the appropriate individuals that he has filed the affidavit.

(3) All the following apply:

- The mother acknowledges in writing a biological relationship between the putative father and the child.
- The putative father demonstrates to the court that he has had parenting time with the child by agreement with the mother.
- The putative father files with the court an affidavit stating that he is the biological father of the child and that he consents to DNA identification profiling.
- The putative father notifies the appropriate individuals that he has filed the affidavit.

#### Genetic Testing

In an action described above, the putative father would have to pay for the genetic testing expenses.

#### Support Obligation

Under the bill, a judgment in a circuit court action described above would not relieve an individual from any child support obligation incurred before entry of the judgment.

#### Definition of "child born out of wedlock"

The current definition of "child born out of wedlock" is (1) a child begotten and born to a woman who was not married from the conception to the date of birth of the child; or (2) a child the court has determined to be a child born or conceived during a marriage but not to be the issue of that marriage. The bill would revise the definition so that it would apply to (1) a child born to a woman who was not married from the conception to the date of birth of the child; (2) a child the court has determined, before an action filed under the bill, to be a child born or conceived during a marriage but not to be the issue of that marriage; and (3) a child the court determines, during the pendency of an action filed under the bill, to be a child born or conceived during a marriage but not to be the issue of that marriage. The underlined portion of (2) is new language, as is all of (3).

**FISCAL IMPACT:**

This bill would not have a significant fiscal impact on local courts. Allowing putative fathers to bring paternity action may increase circuit court caseloads due to additional filings. The cost of these additional cases would likely be minimal.

Legislative Analyst: E. Best  
Fiscal Analyst: Erik Jonassen

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