



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5465 (Substitute H-3 as passed by the House)
Sponsor: Representative Kenneth Kurtz
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

Date Completed: 10-1-14

CONTENT

The bill would create the "Summary Support and Paternity Act" to do the following:

- Provide that a man would be the father of a child born out of wedlock if the man had been determined to be the child's father under the Act, the laws of this State, or another state's laws.
- Allow Department of Human Services (DHS) to request a Title IV-D agency to file a statement including certain information with the court if paternity of a child had not been established, and the child were supported by public assistance or either party had applied for Title IV-D services.
- Require the statement and a notice including certain information to be served on the parties.
- Allow the court to order support, establish paternity, establish custody, or grant other relief upon filing of the statement.
- Prescribe procedures and requirements for genetic testing.
- Allow the DHS to request a Title IV-D agency to file a statement of support obligation with the court if paternity had been established, and the child were supported by public assistance or either party had applied for Title IV-D services.
- Allow a person from whom support was sought to agree in writing to the support or contest the facts in the statement.

The bill is tie-barred to House Bills 5463, 5464, and 5583, and would be effective 90 days after its enactment. (House Bill 5463 would amend the Parenting Act. House Bill 5464 would enact the "Genetic Parentage Act". House Bill 5583 would amend the Revocation of Paternity Act.)

Paternity Not Established

If the paternity of a child born out of wedlock had not been established and the child were supported by public assistance, or either party had signed an application for services under Title IV-D, the DHS could request a Title IV-D agency to file a statement with the court in the county in which the mother, the child, or the alleged father lived. The statement would have to include the names of the parties, the date of the child's birth, and the time and place of the child's conception.

"Party" would mean a child's mother or a child's alleged or legally established father under the proposed Act.

The agency filing the statement would have to serve a copy of it and a notice of intent to establish paternity on the parties. The notice would have to include the following information: a) that the man had been named as the child's father, b) that the nonfiling party would have to respond to the agency within 21 days by admitting paternity in writing, submitting a written request for genetic testing, or producing proof that the alleged father had been excluded as the father under the laws under this State or another state, c) that, if a party requested genetic testing, the mother, child, and alleged father would have to submit to genetic testing as specified by the agency, and d) that, if neither party requested genetic testing or produced proof that the alleged father had been excluded as the father, the alleged father would be established as the child's legal father. The statement and notice could be sent by regular mail, but if the nonfiling party did not respond in writing admitting paternity or requesting testing, the statement and notice would have to be served in same manner as provided by court rules for the service of process in civil matters.

Upon the filing of the statement and notice with the court, and subject to requirements for service of process, the court could do one of the following:

- Establish a child's paternity.
- Issue a support order.
- Establish a child's custody under the Child Custody Act.
- Grant any other relief available under the Child Custody Act, the Friend of the Court Act, or the Support and Parenting Time Enforcement Act.

If the court entered an order and there were no dispute regarding custody, the court would have to include in the order specific provisions for the custody and parenting time of the child. If there were a dispute, the court would have to immediately enter an order that established support, temporary custody, and parenting time with the child, and could refer the matter to the Friend of the Court for a report and recommendation. In such a dispute, the Title IV-D agency or its successor would not be required to represent either party.

Genetic Testing & Duty of Support

If a party requested genetic testing in a timely matter, the Title IV-D agency would have to notify the parties of the date, time, and place for the collection of genetic samples of testing the mother, child, and alleged father. Testing would have to be conducted by a person accredited for paternity determinations by a nationally recognized scientific organization. Within 28 days of receiving the test results, the Title IV-D agency would have to notify the parties and the court of the results. The agency would have to submit a proposed order to the court, which the court would have to enter if it were satisfied that the appropriate procedures were followed. The order would have to do one of the following: a) if the genetic test concluded that the probability of paternity was 99% or higher, declare the alleged father as the child's father and order payment of support and reimbursement of the costs of testing to the State, or b) if the test excluded the alleged father as the child's father, declare that the alleged father was not the child's father.

If the nonfiling party provided proof that the alleged father had been excluded as the child's father by this State or another state, the proof would have to be filed with the court. If the court found that the alleged father had been excluded as the child's father under the laws of this State or another state, the court would have to dismiss the action. Otherwise, the court would have to order the parties and the child to have genetic testing.

If neither party to whom notice was given requested genetic testing or if the alleged father admitted paternity, the Title IV-D agency would submit a proposed order to the court that

established the alleged father to be the child's father and ordered the payment of support. If the court were satisfied that the procedures established under the proposed Act were followed, the court would have to enter the order. If the action being filed on behalf of the alleged father and the child's mother did not admit the alleged father's paternity, the court could not enter an order declaring the alleged father to be the child's father unless the alleged father had a probability of paternity of 99% or higher.

If a party who had participated in the proceeding or who had been served with a statement and notice failed to submit to genetic testing, the court could find the party in contempt, issue a warrant for the party's arrest to compel the party to appear for genetic testing, order other actions as appropriate to compel the party to appear for testing, and order the party to pay the costs of the proceeding. The court would order the child's mother to produce the child and to submit to genetic testing. The court could dismiss the proceeding if the filing party failed to appear or produce the child for testing, but dismissal would not bar future action to establish the child's paternity.

The child's mother and father would have a duty to pay support for the child. That duty could be enforced by either party, the child, the child's guardian or foster parent, or the State through the Title IV-D agency. The parents of a child also would be liable for the medical expenses connected to the mother's pregnancy and the child's birth to the same extent and in the same manner as allowed under the Paternity Act.

Paternity Established

If the paternity of a child had been established and the child were supported by public assistance, or either party had signed an application for services under Title IV-D, the DHS could request a Title IV-D agency to file a statement of support obligation with the court in the county in which the mother, the child, or the alleged father lived. The statement would have to include the following:

- The child's mother or father had been determined to be the parent of the child under the law of this State or another state.
- Support was being sought and the child was not living full-time with the individual from whom support was being sought.
- The individual against whom the duty of support was being enforced had 21 days to contest the notice by requesting a hearing because that individual was not named as the child's parent, or the facts in the notice were incorrect.

Upon the filing of the statement and notice with the court, and subject to the requirements for service of process, the court could do one of the following:

- Establish a child's paternity.
- Issue a support order.
- Establish a child's custody under the Child Custody Act.
- Grant any other relief available under the Child Custody Act, the Friend of the Court Act, or the Support and Parenting Time Enforcement Act.

Within 21 days after the filing of the statement, the individual against whom support was sought could agree in writing to support as established by the support formula. The agreement could be signed by the custodial parent or party, and the Title IV-D agency would have to file the agreement with the court having jurisdiction. If the individual did not respond within 21 days, the Title IV-D agency would have to submit a proposed order establishing the duty to pay support. The court would have to enter the order if it were satisfied that the procedures established under the proposed Act were followed. If the individual against whom support was sought proved to the court that the facts in the form

were not correct, the court would have to enter an appropriate order, which could include dismissal or order genetic testing.

("Support formula" would mean the support formula developed by the State Friend of the Court Bureau under the Friend of the Court Act.)

If the court entered an order and there were no dispute regarding custody, the court would have to include in the order specific provisions for the custody and parenting time of the child. If there were a dispute, the court would have to immediately enter an order that established support, and temporary custody and parenting time with the child. The court could refer the matter to the Friend of the Court for a report and recommendation.

Title IV-D Agencies & Agreements for Services

The Title IV-D agency would have to use the procedures set forth in the Friend of the Court Act to establish the support obligation of a parent ordered to pay support, even if the Title IV-D agency were not the Friend of the Court. A person subject to the proposed requirements would have to provide information requested by the agency to establish the person's support obligation.

The Title IV-D agency that provided support and paternity establishment services in a county on the effective date of the proposed Act would have to provide them under the Act. A county, with the consent of the Office of Child Support, could agree that another agency within the county, or an attorney employed by the county or DHS could provide the services under the Act. An agreement to remove the services from an agency that was providing the services on the Act's effective date would require the consent of that agency. If a judicial branch agency, or prosecuting attorney, were not providing those services, an agreement to require that agency or the prosecuting attorney to provide those services would require the consent of the chief judge of the court, or the prosecutor, respectively.

Counties could enter into agreements to provide regional services, with the consent of all interested agencies, and provided that the services were made available in each county at least monthly.

The proposed Act would not restrict a Title IV-D agency from carrying out the Act's requirements in a manner that used technology, assent, consolidation of services, or coordination of services with other agencies. The Title IV-D agency could carry out the Act's provisions in a manner not inconsistent with the Act to improve efficiency and encourage cooperation between parents, agencies, and units of government.

In a proceeding under the Act, a party could file a motion to set aside an order declaring paternity or contesting a child's paternity as provided in the Revocation of Paternity Act. No filing, order, or court reporter's fees would be required for an action or proceeding under the Act, but the court could assess any costs, service costs, and attorney fees against the nonfiling party in an order.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would not result in a significant fiscal impact on the State or local units of government.

Pursuant to Federal laws and regulations, the DHS currently must attempt to establish paternity and secure support in IV-D cases on behalf of children born out-of-wedlock and establish paternity of children under the age of 18, among other requirements. The DHS

does provide genetic testing services to all 83 counties, although some counties choose to use a third-party vendor. The DHS does not anticipate that the proposed changes would result in any increased costs to the Department.

Fiscal Analyst: Frances Carley

S1314\5465sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.