

**SUBSTITUTE FOR
HOUSE BILL NO. 5465**

A bill to create the summary support and paternity act; to establish a procedure for determining paternity and support; and to prescribe the duties and responsibilities of certain state departments and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "summary support and paternity act".

3 Sec. 2. As used in this act:

4 (a) "Alleged father" means a man who is alleged to have
5 fathered the child who is the subject of an action to establish the
6 father's paternity under this act.

7 (b) "Child born out of wedlock" means a child conceived and
8 born to a woman who was not married from the conception to the date

1 of birth of the child, or a child that the court has determined to
2 be a child born or conceived during a marriage but not the issue of
3 that marriage.

4 (c) "Child custody act of 1970" means the child custody act of
5 1970, 1970 PA 91, MCL 722.21 to 722.31.

6 (d) "Court" means the circuit court.

7 (e) "Department" means the department of human services.

8 (f) "Friend of the court act" means the friend of the court
9 act, 1982 PA 294, MCL 552.501 to 552.535.

10 (g) "Party" means a child's mother or a child's alleged or
11 legally established father under this act.

12 (h) "Person" means an individual, partnership, corporation,
13 association, governmental entity, or other legal entity.

14 (i) "Support" means that term as defined in section 2a of the
15 friend of the court act, MCL 552.502a.

16 (j) "Support and parenting time enforcement act" means the
17 support and parenting time enforcement act, 1982 PA 295, MCL
18 552.601 to 552.650.

19 (k) "Support formula" means the support formula developed by
20 the state friend of the court bureau under section 19 of the friend
21 of the court act, MCL 552.519.

22 (l) "Title IV-D" and "title IV-D agency" mean those terms as
23 defined in section 2 of the support and parenting time enforcement
24 act, MCL 552.602.

25 Sec. 3. Only a title IV-D agency shall use the provisions of
26 this act to establish paternity and support.

27 Sec. 4. A man is the father of a child born out of wedlock if

1 the man has been determined to be the child's father under section
2 5, other law of this state, or the law of another state.

3 Sec. 5. (1) If the paternity of a child born out of wedlock
4 has not otherwise been established and the child is either
5 supported in whole or in part by public assistance or if either
6 party has signed an application for services under title IV-D, the
7 department may request a title IV-D agency to file a statement with
8 the court in the county in which the mother, the child, or the
9 alleged father lives. The statement shall be in a form approved by
10 the state court administrative office under the supervision and
11 direction of the supreme court. The statement shall include the
12 names of the parties, the date of the child's birth, and the time
13 and place as near as possible of the child's conception. If the
14 mother or alleged father signs the statement, the statement must be
15 verified as required by supreme court rules. A statement filed by
16 the title IV-D agency on behalf of the mother, child, or alleged
17 father does not have to be verified. The person on whose behalf the
18 statement is filed is the filing party under this act.

19 (2) The title IV-D agency filing the statement in subsection
20 (1) shall serve a copy of the statement and a notice of intent to
21 establish paternity on the parties. The notice shall be in a form
22 established by the state court administrative office under the
23 supervision and direction of the supreme court and shall include
24 all of the following information:

25 (a) That the man has been named as the child's father.

26 (b) That the nonfiling party must respond to the title IV-D
27 agency within 21 days by doing 1 of the following:

1 (i) Admitting paternity in writing.

2 (ii) Submitting a written request for genetic testing.

3 (iii) Producing proof that the alleged father has been excluded
4 as the father under the laws of this or another state.

5 (c) That, if a party requests genetic testing, the mother,
6 child, and alleged father must submit to genetic testing at the
7 date, time, and place determined by the title IV-D agency.

8 (d) That, if neither party requests genetic testing within 21
9 days or produces proof that the alleged father has been excluded as
10 the father under the laws of this or another state, the alleged
11 father is established as the child's legal father.

12 (3) Upon filing of the statement and notice with the court and
13 subject to service under subsection (4), the court may do 1 or more
14 of the following:

15 (a) Establish a child's paternity.

16 (b) Issue a support order under this act.

17 (c) Establish a child's custody or parenting time under the
18 child custody act of 1970.

19 (d) Grant any other relief available under the child custody
20 act of 1970, the friend of the court act, or the support and
21 parenting time enforcement act.

22 (4) The statement and notice under subsection (2) may be sent
23 by regular mail, but if the nonfiling party does not respond in
24 writing admitting paternity or requesting genetic testing, the
25 statement and notice shall be served in the same manner as provided
26 by court rules for the service of process in civil matters.

27 (5) Unless the court enters an order declaring that the

1 alleged father is not the child's father, both parents must provide
2 information as requested by the title IV-D agency sufficient to
3 allow the title IV-D agency to calculate support under the support
4 formula.

5 (6) If the court enters an order under this act and there is
6 no dispute regarding custody, the court shall include in the order
7 specific provisions for the custody and parenting time of the child
8 as provided in the child custody act of 1970. If there is a dispute
9 between the parties concerning custody or parenting time, the court
10 shall immediately enter an order that establishes support and
11 temporarily establishes custody of and parenting time with the
12 child. Pending a hearing on or other resolution of the dispute, the
13 court may also refer the matter to the friend of the court for a
14 report and recommendation as provided in section 5 of the friend of
15 the court act, MCL 552.505. In a dispute regarding custody or
16 parenting time, the title IV-D agency or its successor as provided
17 in section 11(2) is not required to represent either party
18 regarding that dispute.

19 Sec. 6. (1) If a party requests genetic testing in a timely
20 manner under section 5, the title IV-D agency shall notify the
21 parties of the date, time, and place for the collection of the
22 genetic sample for genetic testing of the mother, alleged father,
23 and child. The date for taking the genetic samples for testing
24 shall be not later than 60 days after the request for genetic
25 testing.

26 (2) Genetic testing under this section shall be conducted by a
27 person accredited for paternity determinations by a nationally

1 recognized scientific organization and approved by the department.

2 (3) Within 28 days of receiving genetic test results, the
3 title IV-D agency shall notify the parties and the court of the
4 test results. The title IV-D agency shall submit a proposed order
5 to the court. The court shall enter the order if the court is
6 satisfied that the procedures established in this act have been
7 followed. The proposed order shall do either of the following:

8 (a) If the genetic testing concludes a probability of
9 paternity of 99% or higher, declare the alleged father as the
10 child's father and may order the payment of support and the
11 repayment of the cost of the genetic test to the state.

12 (b) If the genetic testing excludes the alleged father as the
13 child's father, declare that the alleged father is not the child's
14 father.

15 (4) If the nonfiling party requests genetic testing and the
16 alleged father is not excluded as the child's father, the court may
17 order the nonfiling party to repay the cost of the genetic test to
18 the state in an order entered under this section.

19 (5) If the nonfiling party provides proof that the alleged
20 father has been excluded as the child's father in a separate action
21 under the laws of this state or another state, the proof submitted
22 in support of the exclusion shall be filed with the court. The
23 court shall provide notice and an opportunity for the parties to be
24 heard and shall do either of the following:

25 (a) If the court finds that the alleged father has been
26 excluded as the child's father under the laws of this state or
27 another state, dismiss the action filed under this act.

1 (b) If the court finds that the alleged father has not been
2 excluded as the child's father under the laws of this state or
3 another state, order the parties and the child to have genetic
4 testing as set forth in this act.

5 Sec. 7. (1) Except as provided in subsection (2), if neither
6 party to whom notice is given under section 5 requests genetic
7 testing, or if the alleged father admits paternity, the title IV-D
8 agency shall submit a proposed order to the court that establishes
9 the alleged father to be the child's father and orders the payment
10 of support. If the court is satisfied that the procedures in this
11 act have been followed, the court shall enter the order.

12 (2) If the action is being filed on behalf of the alleged
13 father and the child's mother does not admit the alleged father's
14 paternity, the court shall not enter an order under this act
15 declaring the alleged father to be the child's father unless
16 genetic testing determines that the alleged father has a
17 probability of paternity of 99% or higher.

18 (3) If a party who has participated in the proceeding or who
19 has been served with the statement and notice as provided in
20 section 5 fails to submit to genetic testing, and the court is made
21 aware of that fact by affidavit or otherwise, the court may find
22 the party in contempt, issue a warrant for the party's arrest to
23 compel the party to appear for genetic testing, order other actions
24 as the court considers appropriate to compel the party to appear
25 for genetic testing, and order the person to pay the costs of the
26 proceeding. The court may order the child's mother to produce the
27 child and to submit to genetic testing. A court may dismiss the

1 proceeding if the filing party fails to appear or produce the child
2 for genetic testing, but the dismissal does not bar future action
3 to establish the child's paternity.

4 Sec. 8. (1) The child's mother and father have a duty to pay
5 support for the child, which duty may be enforced by either party,
6 the child, the child's guardian, the child's foster parent, or the
7 state through the title IV-D agency.

8 (2) The parents of a child born out of wedlock are also liable
9 for the medical expenses connected to the mother's pregnancy and
10 the child's birth to the same extent and in the same manner as
11 those expenses are allowed under the paternity act, 1956 PA 205,
12 MCL 722.711 to 722.730.

13 Sec. 9. (1) If the paternity of a child has been established
14 and no action has been filed in a court of this state in which the
15 support of the child can be determined, the provisions of this
16 section apply.

17 (2) If support has not been established for a child who is
18 being supported in whole or in part by public assistance or if an
19 application for title IV-D services has been received by the title
20 IV-D agency, the department may request a title IV-D agency to file
21 with the court in the county in which the mother, the child, or the
22 father lives a statement of support obligation on a form
23 established by the state court administrative office under the
24 supervision and direction of the supreme court stating facts that
25 include the following:

26 (a) That the child's mother or father has been determined to
27 be the parent of the child under the law of this state or another

1 state.

2 (b) That support is being sought and that the child is not
3 living full-time with the individual from whom support is being
4 sought.

5 (c) That the individual against whom the duty of support is
6 being enforced has 21 days to contest the notice by requesting a
7 hearing for either of the following reasons:

8 (i) The individual against whom the duty of support is being
9 enforced is not the individual named as the child's parent.

10 (ii) The facts in the notice are not correct.

11 (3) Upon filing of the notice with the court and subject to
12 service under subsection (4), the court may do 1 or more of the
13 following:

14 (a) Establish a child's paternity.

15 (b) Issue a support order under this act.

16 (c) Establish a child's custody or parenting time under the
17 child custody act of 1970.

18 (d) Grant any other relief available under the child custody
19 act of 1970, the friend of the court act, or the support and
20 parenting time enforcement act.

21 (4) After the notice is filed under subsection (2), the title
22 IV-D agency shall send a copy of the notice to the individual
23 against whom the title IV-D agency seeks to enforce a duty of
24 support. The notice may be sent by regular mail, but if the
25 individual does not respond in writing, the notice shall be served
26 in the same manner as is provided by court rules for the service of
27 process in civil actions.

1 (5) After the notice is filed under subsection (2), or
2 concurrently with the filing, the individual against whom the duty
3 of support is being enforced may, within 21 days after the filing,
4 agree in writing on a form established by the state court
5 administrative office under the supervision and direction of the
6 supreme court to support as established by the support formula. The
7 custodial parent or party may also sign this agreement. The title
8 IV-D agency shall file the agreement with the court that has
9 jurisdiction under subsection (2).

10 (6) If the individual does not respond to the notice within 21
11 days after service, the title IV-D agency shall submit a proposed
12 order to the court establishing the individual's duty to pay
13 support. The court shall enter the order if the court is satisfied
14 that the procedures established in this act have been followed.

15 (7) If the individual against whom a duty of support is being
16 enforced proves to the court that the facts in the form are not
17 correct, the court shall enter an order that is appropriate,
18 including, but not limited to, dismissing the proceeding or
19 ordering genetic testing. The court may not enter an order under
20 this act that does not recognize an individual's paternity
21 established under another law of this state or another state.

22 (8) If the court enters an order under this act and there is
23 no dispute regarding custody, the court shall include in the order
24 specific provisions for the custody and parenting time of the child
25 as provided in the child custody act of 1970. If there is a dispute
26 between the parties concerning custody or parenting time, the court
27 shall immediately enter an order that establishes support and

1 temporarily establishes custody of and parenting time with the
2 child. Pending a hearing on or other resolution of the dispute, the
3 court may also refer the matter to the friend of the court for a
4 report and recommendation as provided in section 5 of the friend of
5 the court act, MCL 552.505. In a dispute regarding custody or
6 parenting time, the title IV-D agency or its successor as provided
7 in section 11(2) is not required to represent either party
8 regarding that dispute.

9 Sec. 10. (1) The title IV-D agency shall use the procedures
10 set forth in section 17b of the friend of the court act, MCL
11 552.517b, to establish the support obligation of a parent who is
12 ordered to pay support under this act even if the title IV-D agency
13 using the procedures is not the friend of the court. The procedures
14 described in this section may be used at the same time as the
15 procedures provided in sections 1 to 8.

16 (2) A person who is subject to this act must provide
17 information requested by the title IV-D agency to establish the
18 person's support obligation.

19 Sec. 11. (1) Subject to subsection (2), the title IV-D agency
20 providing support and paternity establishment services in a county
21 on the effective date of this act shall provide the support and
22 paternity establishment services under this act.

23 (2) A county, with the consent of the office of child support,
24 may agree that another agency within the county, an attorney
25 employed or contracted by the county under section 1 of 1941 PA 15,
26 MCL 49.71, or an attorney employed or under contract with the
27 department may provide the services under this act. An agreement to

1 remove the services from an agency that is providing support and
2 paternity establishment services on the effective date of this act
3 also requires the consent of that agency. If a judicial branch
4 agency is not providing support and establishment services within
5 the county on the effective date of this act, an agreement to
6 require a judicial branch agency to provide the services under this
7 act also requires the consent of the chief judge of the court. If
8 the prosecuting attorney is not providing support and establishment
9 services within the county on the effective date of this act, an
10 agreement to require the prosecuting attorney to provide the
11 services under this act also requires the consent of the
12 prosecutor.

13 (3) Counties, with the consent of all interested agencies, may
14 enter into agreements to provide services regionally under this act
15 provided that the services are made available in each county at
16 least monthly.

17 (4) This act does not restrict the title IV-D agency from
18 carrying out the provisions of this act in any manner that uses
19 technology, assent, consolidation of services, or coordination of
20 services with other agencies. The title IV-D agency with the
21 consent of the department and the state court administrative office
22 under the supervision and direction of the supreme court may carry
23 out the provisions of this act in any manner that is not
24 inconsistent with this act to improve efficiency and encourage
25 cooperation between the parents, agencies, and units of government
26 that are affected by this act, including, but not limited to, the
27 following:

1 (a) Notices and other documents required to be sent or served
2 under this act may be combined.

3 (b) Service and mailing of notices may be completed using any
4 technology or method permitted by court rule.

5 (c) Consent agreements and waivers may be substituted for
6 notices.

7 (d) Information or other data may be transmitted or downloaded
8 using any technology that can serve the same purpose as physical
9 files.

10 (e) One agency may transmit or download information or other
11 data on behalf of another agency.

12 (5) A support order entered under this section is enforceable
13 as provided in the support and parenting time enforcement act. If
14 this act contains a specific provision regarding the contents or
15 enforcement of a child support order that conflicts with a
16 provision in the support and parenting time enforcement act, this
17 act controls in regard to that provision.

18 Sec. 12. In a proceeding under this act, a party may file a
19 motion to set aside the order entered under section 6(3) or
20 contesting a child's paternity as provided in the revocation of
21 paternity act, 2012 PA 159, MCL 722.1431 to 722.1445.

22 Sec. 13. No filing, order, or court reporter's fees are
23 required for an action or proceeding under this act, but the court
24 may assess any costs, service costs, and attorney fees against the
25 nonfiling party in an order under this act.

26 Enacting section 1. This act takes effect 90 days after the
27 date it is enacted into law.

1 Enacting section 2. This act does not take effect unless all
2 of the following bills of the 97th Legislature are enacted into
3 law:

4 (a) House Bill No. 5463.

5 (b) House Bill No. 5464.

6 (c) House Bill No. 5583.