

**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
9 of birth of the child, or a child that the court has determined to

1 be a child born or conceived during a marriage but not the issue of
2 that marriage.

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

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

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

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

9 (g) "Medicaid" means the medical assistance program
10 administered by this state under the social welfare act, 1939 PA
11 280, MCL 400.1 to 400.119b.

12 (h) "Party" means a child's mother or a child's alleged or
13 legally established father under this act.

14 (i) "Person" means an individual, partnership, corporation,
15 association, governmental entity, or other legal entity.

16 (j) "Support" means that term as defined in section 2a of the
17 friend of the court act, MCL 552.502a.

18 (k) "Support and parenting time enforcement act" means the
19 support and parenting time enforcement act, 1982 PA 295, MCL
20 552.601 to 552.650.

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

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

27 Sec. 3. Only a title IV-D agency shall use the provisions of

1 this act to establish paternity and support.

2 Sec. 4. A man is the father of a child born out of wedlock if
3 the man has been determined to be the child's father under section
4 5, other law of this state, or the law of another state.

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

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

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

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

3 (i) Admitting paternity in writing.

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

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

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

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

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

17 (a) Establish a child's paternity.

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

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

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

24 (4) The statement and notice under subsection (2) may be sent
25 by regular mail, but if the nonfiling party does not respond in
26 writing admitting paternity or requesting genetic testing, the
27 statement and notice shall be served in the same manner as provided

1 by court rules for the service of process in civil matters.

2 (5) Unless the court enters an order declaring that the
3 alleged father is not the child's father, both parents must provide
4 information as requested by the title IV-D agency sufficient to
5 allow the title IV-D agency to calculate support under the support
6 formula.

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

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

1 testing.

2 (2) Genetic testing under this section shall be conducted by a
3 person accredited for paternity determinations by a nationally
4 recognized scientific organization and approved by the department.

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

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

15 (b) If the genetic testing excludes the alleged father as the
16 child's father, declare that the alleged father is not the child's
17 father.

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

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

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

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

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

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

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

1 for genetic testing, and order the person to pay the costs of the
2 proceeding. The court may order the child's mother to produce the
3 child and to submit to genetic testing. A court may dismiss the
4 proceeding if the filing party fails to appear or produce the child
5 for genetic testing, but the dismissal does not bar future action
6 to establish the child's paternity.

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

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

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

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

1 include the following:

2 (a) That the child's mother or father has been determined to
3 be the parent of the child under the law of this state or another
4 state.

5 (b) That support is being sought and that the child is not
6 living with the individual from whom support is being sought.

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

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

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

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

16 (a) Establish a child's paternity.

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

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

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

23 (4) After the notice is filed under subsection (2), the title
24 IV-D agency shall send a copy of the notice to the individual
25 against whom the title IV-D agency seeks to enforce a duty of
26 support. The notice may be sent by regular mail, but if the
27 individual does not respond in writing, the notice shall be served

1 in the same manner as is provided by court rules for the service of
2 process in civil actions.

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

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

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

24 (8) If the court enters an order under this act and there is
25 no dispute regarding custody, the court shall include in the order
26 specific provisions for the custody and parenting time of the child
27 as provided in the child custody act of 1970. If there is a dispute

1 between the parties concerning custody or parenting time, the court
2 shall immediately enter an order that establishes support and
3 temporarily establishes custody of and parenting time with the
4 child. Pending a hearing on or other resolution of the dispute, the
5 court may also refer the matter to the friend of the court for a
6 report and recommendation as provided in section 5 of the friend of
7 the court act, MCL 552.505. In a dispute regarding custody or
8 parenting time, the prosecuting attorney, an attorney appointed by
9 the county or the department, or an attorney appointed by the court
10 under section 11 is not required to represent either party
11 regarding that dispute.

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

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

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

27 (2) A county, with the consent of the office of child support,

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

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

18 (4) This act does not restrict the title IV-D agency from
19 providing services under this act in any manner that uses
20 technology, assent, consolidation of services, or coordination of
21 services with other agencies. The title IV-D agency with the
22 consent of the department and the state court administrative office
23 may carry out the services under 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 Enacting section 1. This act takes effect 90 days after the
23 date it is enacted into law.

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

27 (a) House Bill No. 5463.

- 1 (b) House Bill No. 5464.
- 2 (c) House Bill No. 5583.