

SUBSTITUTE FOR
HOUSE BILL NO. 5464

A bill to provide for genetic testing in certain paternity cases; and to prescribe the duties and responsibilities of certain state departments, agencies, and officers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "genetic parentage act".

3 Sec. 3. As used in this act:

4 (a) "Alleged father" means a man who by his actions could have
5 fathered the child.

6 (b) "Child born out of wedlock" means a child conceived and
7 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) "DNA identification profiling" and "summary report" mean
5 those terms as defined in section 1 of the paternity act, MCL
6 722.711.

7 (d) "Genetic paternity determination form" means a form issued
8 by the title IV-D agency to provide genetic testing information to
9 the state registrar. A genetic paternity determination form
10 provides identifying information for individuals on the summary
11 report and includes, but is not limited to, the following
12 information:

13 (i) As provided under section 7 or 9, the man is the child's
14 father.

15 (ii) The child's name, date of birth, and the name of the city,
16 county, and state where the child was born.

17 (iii) The mother's name, social security number, and date of
18 birth.

19 (iv) The father's name, social security number, and date of
20 birth.

21 (v) Other information required to carry into effect the
22 provisions of this act.

23 (e) "Paternity act" means the paternity act, 1956 PA 205, MCL
24 722.711 to 722.730.

25 (f) "Public health code" means the public health code, 1978 PA
26 368, MCL 333.1101 to 333.25211.

27 (g) "State registrar" means that term as defined in section

1 2805 of the public health code, MCL 333.2805.

2 (h) "Title IV-D agency" means that term as defined in section
3 2 of the support and parenting time enforcement act, 1982 PA 295,
4 MCL 552.602.

5 Sec. 5. This act cannot be used to determine paternity if
6 either of the following is true:

7 (a) The child's father has previously acknowledged paternity
8 under the acknowledgment of parentage act, 1996 PA 305, MCL
9 722.1001 to 722.1013, or if the child's paternity has been
10 established under the law of this or another state.

11 (b) The child is subject to a pending adoption proceeding
12 under the Michigan adoption code, chapter X of the probate code of
13 1939, 1939 PA 288, MCL 710.21 to 710.70, or if the child is subject
14 to a pending adoption proceeding in another state.

15 Sec. 7. (1) If a child is born out of wedlock, a man is
16 considered to be the biological father of that child if all of the
17 following are true:

18 (a) The alleged father or mother is receiving services from a
19 title IV-D agency.

20 (b) The mother, child, and alleged father submitted to blood
21 or tissue typing determinations that may include, but are not
22 limited to, determinations of red cell antigens, red cell
23 isoenzymes, human leukocyte antigens, serum proteins, or DNA
24 identification profiling, to determine whether the alleged father
25 is likely to be, or is not, the father of the child.

26 (c) A blood or tissue typing or DNA identification profiling
27 was conducted by a person accredited for paternity determinations

1 by a nationally recognized scientific organization, including, but
2 not limited to, the American association of blood banks and
3 approved by the department of human services.

4 (d) The probability of paternity determined by the qualified
5 person described in subdivision (c) conducting the blood or tissue
6 typing or DNA identification profiling is 99% or higher.

7 (e) The mother and alleged father sign a form created by the
8 department of human services agreeing to submit to the test. The
9 form created under this subdivision shall include, but not be
10 limited to, the following information:

11 (i) A summary of how the tests will be conducted.

12 (ii) A summary of how the test results will establish or
13 exclude the alleged father as the child's father.

14 (iii) That if genetic testing establishes paternity, the mother
15 shall be granted initial custody of the child, without prejudice to
16 the determination of either parent's custodial rights, until
17 otherwise determined by the court or otherwise agreed upon by the
18 parties in writing and acknowledged by the court.

19 (iv) That the parties consent to the general personal
20 jurisdiction of the court of record of this state regarding the
21 issues of the support, custody, and parenting time of the child.

22 (2) If the results of the analysis of genetic testing material
23 from 2 or more persons indicate a probability of paternity greater
24 than 99%, the accredited person described in subsection (1)(c)
25 shall conduct additional genetic paternity testing until all but 1
26 of the alleged fathers is eliminated, unless the dispute involves 2
27 or more alleged fathers who have identical DNA.

1 Sec. 9. (1) Genetic testing that determines a man is the
2 biological father of a child under this act establishes paternity.
3 If genetic testing establishes paternity as described in this
4 subsection, the mother is granted initial custody of the child,
5 without prejudice to the determination of either parent's custodial
6 rights, until otherwise determined by the court or otherwise agreed
7 upon by the parties in writing and acknowledged by the court. This
8 grant of initial custody to the mother does not, by itself, affect
9 the rights of either parent in a proceeding to seek a court order
10 for custody or parenting time.

11 (2) Genetic testing that determines the man is the biological
12 father of a child under this act may be the basis for court-ordered
13 child support, custody, or parenting time without further
14 adjudication under the paternity act. The child who is the subject
15 of the genetic testing has the same relationship to the mother and
16 the man determined to be the biological father under this act as a
17 child born or conceived during a marriage and has identical status,
18 rights, and duties of a child born in lawful wedlock effective from
19 birth.

20 Sec. 11. (1) The title IV-D agency shall file a genetic
21 paternity determination form and a summary report with the state
22 registrar. The state registrar shall review the genetic paternity
23 determination form and the summary report upon receipt. If the
24 genetic paternity determination form and summary report comply with
25 the provisions of this act, the state registrar shall file the
26 genetic paternity determination form and the summary report in a
27 parentage registry in the office of the state registrar. The

1 genetic paternity determination form and the summary report filed
2 with the state registrar shall be maintained as a permanent record
3 in a manner consistent with section 2876 of the public health code,
4 MCL 333.2876.

5 (2) The title IV-D agency shall provide a copy of the genetic
6 paternity determination form and the summary report to the mother
7 and father.

8 (3) When the genetic paternity determination form and the
9 summary report are filed with the state registrar on a child born
10 in this state, the father of the child may be included on the birth
11 certificate unless another man is recorded as the child's father on
12 the birth certificate. The state registrar shall collect the fee to
13 amend the birth certificate as identified in section 2891 of the
14 public health code, MCL 333.2891. For a birth certificate amended
15 under this subsection and upon written request of both parents, the
16 child's surname shall be recorded on the birth certificate as
17 designated by the child's parents.

18 (4) Upon request, the state registrar shall issue a copy of
19 the genetic paternity determination form and summary report filed
20 in the parentage registry under the procedures and upon payment of
21 the fee prescribed by section 2891 of the public health code, MCL
22 333.2891.

23 Sec. 13. Except as otherwise provided by law, a mother and
24 father who have genetic tests that are filed as a genetic paternity
25 determination form as prescribed by section 11 are consenting to
26 the general personal jurisdiction of the courts of record of this
27 state regarding the issues of the support, custody, and parenting

1 time of the child.

2 Sec. 15. The department of human services in consultation with
3 the department of community health shall create the genetic
4 paternity determination form.

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

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

10 (a) House Bill No. 5463.

11 (b) House Bill No. 5465.

12 (c) House Bill No. 5583.