

# HOUSE BILL No. 5465

April 23, 2014, Introduced by Rep. Kurtz and referred to the Committee on Families,  
Children, and Seniors.

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

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

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

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

18 (j) "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 (k) "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 (l) "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 title IV-D agency may file a statement with the court on behalf of  
10 the child, the mother, or the alleged father. The statement shall  
11 be in a form approved by the state court administrative office  
12 under the supervision and direction of the supreme court. The  
13 statement shall include the names of the parties, the date of the  
14 child's birth, and the time and place as near as possible of the  
15 child's conception. If the mother or alleged father signs the  
16 statement, the statement must be verified as required by supreme  
17 court rules. A statement filed by the title IV-D agency on behalf  
18 of the mother, child, or alleged father does not have to be  
19 verified. The person on whose behalf the statement is filed is the  
20 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 Sec. 7. (1) If a party requests genetic testing in a timely  
8 manner under section 5, the title IV-D agency shall notify the  
9 parties of the date, time, and place for the collection of the  
10 genetic sample for genetic testing of the mother, alleged father,  
11 and child. The date for taking the genetic samples for testing  
12 shall be not later than 60 days after the request for genetic  
13 testing.

14 (2) Genetic testing under this section shall be conducted by a  
15 person accredited for paternity determinations by a nationally  
16 recognized scientific organization and approved by the department  
17 of human services.

18 (3) If the nonfiling party requests genetic testing and the  
19 alleged father is not excluded as the child's father, the nonfiling  
20 party shall repay the cost of the genetic test to the state.

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

27 (a) If the genetic testing concludes a probability of

1 paternity of 99% or higher, acknowledge the alleged father as the  
2 child's father and may order the payment of support and the  
3 repayment of the cost of the genetic test to the state.

4 (b) If the genetic testing excludes the alleged father as the  
5 child's father, declare that the alleged father is not the child's  
6 father.

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

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

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

20 (6) A party may file a motion to set aside the order entered  
21 under subsection (4) or contesting the genetic test results on the  
22 grounds that the genetic tests are inaccurate. The objection,  
23 required proof, and hearing must conform to section 6(4) of the  
24 paternity act, 1956 PA 205, MCL 722.716.

25 Sec. 9. (1) Except as provided in subsection (2), if neither  
26 party to whom notice is given under section 5 requests genetic  
27 testing, or if the alleged father admits paternity, the title IV-D

1 agency shall submit a proposed order to the court that establishes  
2 the alleged father to be the child's father and orders the payment  
3 of support. If the court is satisfied that the procedures in this  
4 act have been followed, the court shall enter the order.

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

11 (3) If a party who has participated in the proceeding or who  
12 has been served with the statement and notice as provided in  
13 section 5 fails to submit to genetic testing, and the court is made  
14 aware of that fact by affidavit or otherwise, the court may find  
15 the party in contempt, issue a warrant for the party's arrest to  
16 compel the party to appear for genetic testing, order other actions  
17 as the court considers appropriate to compel the party to appear  
18 for genetic testing, and order the person to pay the costs of the  
19 proceeding. The court may order the child's mother to produce the  
20 child and to submit to genetic testing. A court may dismiss the  
21 proceeding if the filing party fails to appear or produce the child  
22 for genetic testing, but the dismissal does not bar future action  
23 to establish the child's paternity.

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

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

6           Sec. 11. (1) If the paternity of a child has been established  
7 and no action has been filed in a court of this state in which the  
8 support of the child can be determined, the provisions of this  
9 section apply.

10           (2) If support has not been established for a child who is  
11 being supported in whole or in part by public assistance or if an  
12 application for title IV-D services has been received by the title  
13 IV-D agency, the title IV-D agency may file with the court in the  
14 county in which the mother, the child, or the father lives a notice  
15 of support obligation on a form established by the state court  
16 administrative office under the supervision and direction of the  
17 supreme court stating facts that include the following:

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

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

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

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



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

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

5           (a) Establish a child's paternity.

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

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

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

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

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

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

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

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

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

24           Sec. 13. (1) Subject to subsection (2), the title IV-D agency  
25 providing support and paternity establishment services in a county  
26 on the effective date of this act shall provide the support and  
27 paternity establishment services under this act.

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

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

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

1 but not limited to, the following:

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

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

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

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

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

13 (5) If a party contests the establishment of paternity under  
14 section 7(5) or (6), or the basis for owing a duty of support under  
15 section 11(2), the court shall hold a preliminary hearing to  
16 determine whether the party can establish a prima facie case. The  
17 rules of evidence do not apply to this preliminary hearing. If the  
18 initial determination of a prima facie case is made by a referee,  
19 there is no right to a de novo hearing from that determination. If  
20 the party cannot establish a prima facie case, the petition shall  
21 be dismissed. If a prima facie case is established, the court shall  
22 hold a hearing on the petition. The title IV-D agency conducts  
23 proceedings under this act on behalf of the state and not as the  
24 attorney for any other party.

25 (6) A support order entered under this section is enforceable  
26 as provided in the support and parenting time enforcement act. If  
27 this act contains a specific provision regarding the contents or

1 enforcement of a child support order that conflicts with a  
2 provision in the support and parenting time enforcement act, this  
3 act controls in regard to that provision.

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