

HOUSE BILL No. 4120

January 30, 2003, Introduced by Rep. Koetje and referred to the Committee on Judiciary.

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
(MCL 552.601 to 552.650) by adding section 5e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5e. (1) An individual may file a motion for relief
2 from a court order that states that the individual is a child's
3 father or that requires the individual to pay child support.
4 Except as otherwise provided in this section, the court shall
5 vacate an order stating an individual is a child's father or
6 terminate a child support order if the court finds both of the
7 following:
8 (a) The individual is not the child's adoptive parent.
9 (b) Genetic testing results are admitted into evidence and
10 the results exclude the individual as the child's parent.
11 (2) The court shall not grant a motion filed under

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1 subsection (1) if the court finds that the individual who filed
2 the motion knew of genetic or blood testing results that excluded
3 the individual as the child's parent more than 6 months before
4 the motion was filed and the individual cannot show good cause as
5 to the failure to file the motion within 6 months after obtaining
6 the test results.

7 (3) The court shall not grant a motion under subsection (1)
8 if the court finds that, after an individual knows that he is not
9 a child's biological parent, any of the following occur:

10 (a) The individual acknowledges paternity of the child in
11 writing.

12 (b) The individual consents to his name being entered as the
13 child's biological father on the child's birth certificate.

14 (c) The individual is determined to be the child's father in
15 an action under the paternity act, 1956 PA 205, MCL 722.711 to
16 722.730.

17 (d) The state registrar files an acknowledgment of parentage
18 in which the individual declares himself to be the child's
19 biological father.

20 (e) The individual otherwise admits that he is, or
21 acknowledges himself as, the child's biological father.

22 (4) Subsection (3) does not apply if the court finds that an
23 event listed in subsection (3) occurred before the individual
24 knew that he is not the child's biological father.

25 (5) An individual shall file a motion under this section with
26 the court that issued the order from which the moving party seeks
27 relief.

1 (6) In a proceeding under this section, the court, upon
2 application made by or on behalf of either party, or on its own
3 motion, shall order the child, the child's mother, and the
4 individual filing the motion under subsection (1) to submit to
5 genetic testing within 30 days after the order requiring genetic
6 testing is issued. Genetic testing under this section is subject
7 to the same procedures as genetic testing ordered under section 6
8 of the paternity act, 1956 PA 205, MCL 722.716.

9 (7) If the court grants a motion under this section to vacate
10 or terminate an order, and the moving party and child are also
11 the subjects of a parenting time order, the court shall determine
12 if the parenting time order is terminated, modified, or continued
13 based upon the best interests of the child. If the court grants
14 a motion under this section to terminate a child support order
15 and an arrearage exists under that order, the court may
16 retroactively correct the arrearage.

17 (8) If a motion under this section is to terminate a child
18 support order and the court does not grant the motion, the court
19 shall order the moving party to pay the costs of the action and
20 each opposing party's reasonable attorney fees.

21 (9) As used in this section, "genetic testing" means blood or
22 tissue typing, or DNA identification profiling, as described in
23 and prescribed by the paternity act, 1956 PA 205, MCL 722.711 to
24 722.730.

25 Enacting section 1. This amendatory act takes effect
26 October 1, 2003.