

[No. 109]

(SB 320)

AN ACT to amend 1956 PA 205, entitled "An act to confer upon circuit courts jurisdiction over proceedings to compel and provide support of children born out of wedlock; to prescribe the procedure for determination of such liability; to authorize agreements providing for furnishing of such support and to provide for the enforcement thereof; and to prescribe penalties for the violation of certain provisions of this act," by amending sections 7, 10, and 11 (MCL 722.717, 722.720, and 722.721), section 7 as amended by 1996 PA 308, section 10 as amended by 1996 PA 18, and section 11 as amended by 1990 PA 244; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

722.717 Order of filiation; circumstances; contents; support order; enforcement of judgment or order; fee; reports to director of department of community health; service of copies to parties.

Sec. 7. (1) The court shall enter an order of filiation declaring paternity and providing for the support of the child under 1 or more of the following circumstances:

(a) The finding of the court or the verdict determines that the man is the father.

(b) The defendant acknowledges paternity either orally to the court or by filing with the court a written acknowledgment of paternity.

(c) The defendant is served with summons and a default judgment is entered against him or her.

(2) An order of filiation entered under subsection (1) shall specify the sum to be paid weekly or otherwise, as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, until the child reaches the age of 18. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for a child after he or she reaches 18 years of age. In addition to providing for the support of the child, the order shall also provide for the payment of the necessary expenses incurred by or for the mother in connection with her confinement, for the funeral expenses if the child has died, for the support of the child before the entry of the order of filiation, and for the expenses in connection with the pregnancy of the mother or of the proceedings as the court considers proper. However, if proceedings under this act are commenced after the lapse of more than 6 years after the birth of the child, an amount shall not be awarded for expenses or support that accrued before the date on which the complaint was filed unless 1 or more of the following circumstances exist:

(a) Paternity has been acknowledged by the father in writing in accordance with statutory provisions.

(b) One or more payments were made for support of the child during the 6-year period and proceedings are commenced within 6 years after the date of the most recent payment.

(c) The defendant was out of the state, was avoiding service of process, or threatened or coerced the complainant not to file a proceeding under this act during the 6-year period. The court may award an amount for expenses or support that accrued before the date the complaint was filed if the complaint was filed within a period of time equal to the sum of 6 years and the time that the defendant was out of state, was avoiding service of process, or threatened or coerced the complainant not to file a proceeding under this act.

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(3) A judgment or order entered under this act providing for the support of a child or payment of expenses in connection with the mother's confinement or pregnancy is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(4) Upon entry of an order of filiation, the clerk of the court shall collect a fee of \$35.00 from the person against whom the order of filiation is entered. The clerk shall retain \$9.00 of the fee and remit the \$26.00 balance, along with a written report of the order of filiation, to the director of the department of community health. The report shall be on a form prescribed by or in a manner approved by the director of the department of community health. Regardless of whether the fee required by this section is collected, the clerk shall transmit and the department of community health shall receive the report of the order of filiation.

(5) If an order of filiation or acknowledgment of parentage is abrogated by a later judgment or order of a court, the clerk of the court that entered the order shall immediately communicate that fact to the director of the department of community health on a form prescribed by the director of the department of community health. An order of filiation supersedes an acknowledgment of parentage.

(6) Within the time prescribed by court rule, the party, attorney, or agency that secures the signing of an order of filiation shall serve a copy of the order on all parties to the action and file proof of service with the court clerk.

722.720 Continuing jurisdiction; purposes.

Sec. 10. The court has continuing jurisdiction over proceedings brought under this act to increase or decrease the amount fixed by the order of filiation subject to section 7, and to provide for, change, and enforce provisions of the order relating to the custody or support of or parenting time with the child.

722.721 Mother's support and education of child born out of wedlock; bond; default; liability of father.

Sec. 11. (1) If a mother of a child born out of wedlock possesses property and fails to support and educate her child, the court having jurisdiction, on application of the child's guardian or next friend, or the family independence agency if the child is being supported in whole or in part by public assistance, may investigate the matter and, after a hearing and subject to section 7, may make an order charging the mother with the payment of money weekly or otherwise for the child's support and education.

(2) The court may require the mother to give security, by bond, with sufficient sureties approved by the court for the payment as directed by the order. In case of default under the bond, the bond shall be enforced in the manner provided in section 9.

(3) This section does not relieve the father from liability for the child's support and education in accordance with this act.

Repeal of § 722.717a.

Enacting section 1. Section 7a of the paternity act, 1956 PA 205, MCL 722.717a, is repealed.

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Effective date.

Enacting section 2. This amendatory act takes effect September 30, 2001.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 317 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 27, 2001.

Filed with Secretary of State July 30, 2001.

Compiler's note: Senate Bill No. 317, referred to in enacting section 3, was filed with the Secretary of State July 30, 2001, and became P.A. 2001, No. 106, Eff. Sept. 30, 2001.
