

'BASTARDY STATUTE'

Man fights 'antiquated' paternity law in hopes of becoming father to his son

Mother of his child married another man

BY IAN C. STOREY
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TRAVERSE CITY — For his son Caleb's second birthday, Bill Numerick bought a Fisher Price toy that teaches songs and the

ABCs.

But the Traverse City man won't be able to watch Caleb open or play with the present, if it makes it to the toddler at all.

Numerick, 26, has fought for nearly three years to see his biological son, Caleb, after courts ruled he has no legal standing because of a state statute that prevents his paternity claim after his former girlfriend married

someone else.

Numerick, a local Web designer, hopes the Michigan Supreme Court or new legislation from state Sen. Michelle McManus, R-Lake Leelanau, will allow him to see Caleb for the first time.

"I am OK today, but tomorrow it is going to be hard," said Numerick on Thursday, the day before Caleb's

PLEASE SEE PAGE 10A



FATHER

Man fighting to have relationship with his son

FROM PAGE 1A

birthday. "It is hard to know that he is out there and I never see him. He has no idea who I am."

Numerick's attorney, Craig Elhart, said the state's paternity law, often called the "Bastardy Statute," holds that a child born into a marriage is a product of it, regardless of whether the man in the marriage is the biological father of the child.

Elhart said the law is meant to ensure the child's welfare, but does nothing

to allow for a biological father's rights.

"There are good social reasons for it but, unhappily, laws don't change as rapidly as society changes," said Elhart. "The law is antiquated."

Numerick dated Heather Krull, of Traverse City, on and off for two years when she became pregnant in the summer of 2002, he said.

Shortly after, the relationship ended and, in February 2003, before Caleb was born, Numerick petitioned the 13th Circuit Court to determine his paternal rights.

A month later Krull married a man named Derek Smith and she asked Grand Traverse County Family Court Judge David Stowe to dismiss Numerick's claim to determine paternity.

On May 16, 2003, Stowe

ruled that under state law Numerick had no legal standing to claim paternity.

"I certainly hope I am wrong," ruled Stowe. "... I do not believe (Numerick) has standing under the Paternity Act. I do believe we need further direction from the Court of Appeals that we haven't received to date."

On Feb. 15 the appeals court issued an opinion affirming Stowe's decision.

It was a ruling attorney Steven Fox, who represents Heather Smith, said is best for a child's welfare.

"If you ask me what my opinion is, you have to look at what is a father," he said.

"The question is do you think a father is a person who contributes DNA to a child, or do you think a father provides for, nurtures and raises a child? In my mind, it is the latter."

After losing his case in the Michigan Court of Appeals, Numerick filed for relief with the Michigan Supreme Court on March 28.

McManus introduced Senate Bill 436 on April 26 to amend the Paternity Act in order to address the rights and legal standing of biological fathers, based on concerns expressed by the Court of Appeals and Supreme Court.

But McManus said the new bill is limited in its scope and does not address retroactive claims, which means as written it wouldn't apply to Numerick's case.

"We kept it narrow because this issue has been talked about in the legislature, but nothing has been able to get through," McManus said. "I am introducing it because I think it

is really important.

Children have the right to know who their biological fathers are."

Fox said McManus' bill confirms previous court opinions in favor of Smith. "From the standpoint of the lawsuit, the fact that Sen. McManus introduced the Senate bill confirms what the court said in its opinion," he said.

In the bill, McManus said a biological father must file for paternity within a year of the child's birth in order to establish rights.

"(In the bill) we only do what the Court of Appeals and the Supreme Court have asked of the legislature," McManus said. "Unfortunately, there are more and more cases like this coming out of the courts that need to be addressed."

Without retroactive appli-

cation of the law — which McManus didn't include to avoid an "overload" in the courts — the bill won't help Numerick.

But Numerick said he is hopeful the bill will be changed to at least include biological fathers like himself who are petitioning for paternity.

Numerick — who has chronicled his experience at www.loveofmylife.org — holds out hope he'll eventually be able to lavish presents on Caleb in person, including a blanket made for the child shortly after he was born.

"Some days are definitely worse than others, like when I got the Court of Appeals decision," he said. "But I try to look at everything in a positive way, that there is a reason that all of this is happening. ... I am doing this for Caleb."