

HOUSE BILL No. 4252

February 13, 1991, Introduced by Reps. Hertel and Perry Bullard and referred to the Committee on Judiciary.

A bill to amend sections 24a, 27, 28, 29, 36, 37, 39, 43, 51, and 68 of chapter X of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

section 24a as added and sections 29, 36, 39, and 51 as amended by Act No. 72 of the Public Acts of 1982 and sections 27, 28, 43,

and 68 as amended by Act No. 175 of the Public Acts of 1990, being sections 710.24a, 710.27, 710.28, 710.29, 710.36, 710.37, 710.39, 710.43, 710.51, and 710.68 of the Michigan Compiled Laws; and to add section 43a to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 24a, 27, 28, 29, 36, 37, 39, 43, 51,
2 and 68 of chapter X of Act No. 288 of the Public Acts of 1939,
3 section 24a as added and sections 29, 36, 39, and 51 as amended
4 by Act No. 72 of the Public Acts of 1982 and sections 27, 28, 43,
5 and 68 as amended by Act No. 175 of the Public Acts of 1990,
6 being sections 710.24a, 710.27, 710.28, 710.29, 710.36, 710.37,
7 710.39, 710.43, 710.51, and 710.68 of the Michigan Compiled Laws,
8 are amended and section 43a is added to chapter X to read as
9 follows:

10 CHAPTER X

11 Sec. 24a. (1) Interested parties in a petition for adop-
12 tion include, but shall not be limited to:

13 (a) The petitioner.

14 (b) The adoptee, if over 14 years of age.

15 (c) A minor parent, adult parent, or surviving parent of a
16 minor adoptee, unless:

17 (i) The rights of the parent have been terminated by a court
18 of competent jurisdiction.

19 (ii) A guardian of the adoptee, with specific authority to
20 consent to adoption, has been appointed.

21 (iii) A guardian of the parent, with specific authority to
22 consent to adoption, has been appointed.

1 (iv) The rights of the parent have been released.

2 (v) The parent has consented to the granting of the
3 petition.

4 (d) The department or a child placing agency to which the
5 adoptee has been, or for purposes of subsection (2) is proposed
6 to be, released or committed by an order of the juvenile division
7 of the probate court.

8 (e) A parent, guardian, or guardian ad litem of an unemanci-
9 pated minor parent of the adoptee.

10 (f) The juvenile division of the probate court with per-
11 manent custody of the adoptee.

12 (g) A court with continuing jurisdiction over the adoptee.

13 (h) A child placing agency of another state or country which
14 has authority to consent to adoption.

15 (i) The guardian or guardian ad litem of an interested
16 party.

17 (2) Interested parties in a petition for a hearing to iden-
18 tify the father of a child and to determine or terminate his
19 rights include, but shall not be limited to:

20 (a) The persons ~~set forth~~ DESCRIBED in subsection (1).

21 (b) A putative father of the child.

22 (3) Interested parties in a proceeding relating to the exe-
23 cution of a voluntary release include, but shall not be limited
24 to:

25 (a) The adoptee, if over 5 years of age.

26 (b) The department or a child placing agency to which the
27 adoptee is proposed to be released.

1 (c) The person executing the release of parental rights.

2 (4) INTERESTED PARTIES IN A PETITION BY THE GUARDIAN OF A
3 CHILD OR BY THE GUARDIAN OF A PARENT OF A CHILD FOR AUTHORITY TO
4 EXECUTE A RELEASE OF THE CHILD OR EXECUTE A CONSENT TO THE
5 CHILD'S ADOPTION INCLUDE, BUT SHALL NOT BE LIMITED TO:

6 (A) THE PERSONS DESCRIBED IN SUBSECTION (1).

7 (B) A PUTATIVE FATHER OF THE CHILD, UNLESS HIS RIGHTS TO THE
8 CHILD HAVE BEEN TERMINATED BY A COURT OF COMPETENT JURISDICTION.

9 (5) ~~(4)~~ The court shall not appoint a guardian of the
10 adoptee or of a parent solely for the purpose of defeating that
11 parent's status as an interested party under this section.

12 Sec. 27. (1) Nonidentifying information shall be maintained
13 by a child placing agency, the department, or a court that places
14 an adoptee under this chapter AND BY THE COURT THAT ENTERS AN
15 ORDER OF ADOPTION UNDER THIS CHAPTER. The following nonidenti-
16 fying information shall be maintained, if obtainable:

17 (a) Date, time, and place of birth of the adoptee including
18 the hospital, city, county, and state.

19 (b) Medical history of the adoptee and biological parents.

20 (c) Ethnicity of the biological parents.

21 (d) Status of termination--voluntary or court ordered.

22 (e) Religious background of biological parents.

23 (f) Age and sex of siblings of the adoptee known at the time
24 of the adoption.

25 (g) Educational level of biological parents.

26 (2) The information required by subsection (1) shall be
27 supplemented by other nonidentifying background information that

1 the child placing agency, department, or court considers
2 appropriate.

3 (3) The department, a child placing agency, or a court that
4 places an adoptee under this chapter AND THE COURT THAT ENTERS AN
5 ORDER OF ADOPTION UNDER THIS CHAPTER shall maintain all of the
6 following identifying information if obtainable:

7 (a) Name of the child before placement in adoption.

8 (b) Names of biological parents at the time of termination
9 of parental rights.

10 (c) The most recent names and addresses of the biological
11 parents.

12 (d) Names of the biological siblings at the time of
13 termination.

14 (4) The court shall inform each biological parent at the
15 time of termination of parental rights pursuant to this chapter
16 or chapter ~~+2A-~~ XIIIA, that the biological parent may file a
17 denial of release of the identifying information specified in
18 subsection (3) with the department at any time and that the
19 denial may be revoked at any time. The department shall develop
20 a form for biological parents to deny or revoke a denial of
21 release of identifying information and shall make the form avail-
22 able to the court. The court shall inform both biological par-
23 ents, if known, of the provisions described in sections 68 and
24 68a.

25 (5) The department shall keep on file each statement con-
26 cerning a child believed to be adopted that is submitted by a
27 biological parent or adult biological sibling consenting to or

1 denying release of identifying information, and shall transmit
2 that statement to the proper child placing agency, department, or
3 court upon request of the child placing agency, department, or
4 court. The statement may be rescinded at any time by the biolog-
5 ical parent or adult biological sibling. A statement made by a
6 biological parent or adult biological sibling consenting to the
7 release of identifying information shall include the current name
8 and address of the biological parent or adult biological
9 sibling. Once a request for information from the file has been
10 received by the department, a subsequent statement submitted by a
11 biological parent or adult biological sibling consenting to the
12 release of identifying information or revoking a previous denial
13 to release of identifying information, shall be transmitted to
14 the requesting child placing agency, department, or court upon
15 receipt.

16 (6) If a child placing agency ceases to operate, the
17 agency's adoption records shall be forwarded to the department.
18 A branch or associate agency of a child placing agency which
19 ceases to operate shall forward its records to the central agency
20 of the branch or associate agency.

21 (7) This section ~~also~~ applies to ~~a stepparent adoption~~
22 ~~and to the adoption of a child related to the petitioner within~~
23 ~~the fifth degree by marriage, blood, or adoption~~ ALL ADOPTIONS
24 UNDER THIS CHAPTER.

25 (8) The information required by subsections (1) through (3)
26 shall be maintained by the child placing agency, department, or
27 court. An employee or agent of a child placing agency, the

1 court, or the department, who intentionally destroys information
2 required to be maintained under this section, is guilty of a
3 misdemeanor.

4 Sec. 28. (1) Subject to this section and section 29, a
5 release shall be executed:

6 (a) By each parent of a child to be adopted or the surviving
7 parent, except under the following circumstances:

8 (i) The rights of the parent have been terminated by a court
9 of competent jurisdiction.

10 (ii) A guardian of the child has been appointed.

11 (iii) A guardian of a parent has been appointed.

12 (b) By the duly authorized representative of a child placing
13 agency to whom the child has been committed by an order of the
14 juvenile division of the probate court.

15 (c) By the duly authorized representative of the child plac-
16 ing agency to whom the child has been released.

17 (d) By the guardian of the child, if a guardian has been
18 appointed.

19 (e) By the guardian of a parent.

20 (2) A release by a parent shall be executed only after the
21 department or child placing agency has provided that parent with
22 a list of adoption support groups.

23 (3) If the parent of the child to be adopted is an unemanci-
24 pated minor, that parent's release is not valid unless a parent,
25 guardian, or guardian ad litem of that minor parent has also exe-
26 cuted the release.

1 (4) The guardian of the child to be adopted may not execute
2 a release of the child pursuant to subsection (1) unless the
3 guardian has first obtained authority to execute the release from
4 the court which appointed the guardian PURSUANT TO SECTION 43A OF
5 THIS CHAPTER.

6 (5) The guardian of a parent may not execute a release of
7 the parent's child pursuant to subsection (1) unless the guardian
8 has first obtained authority to execute the release from the
9 court which appointed the guardian PURSUANT TO SECTION 43A OF
10 THIS CHAPTER. Such a release shall have the same effect as if
11 the release were executed by the parent.

12 (6) A release shall be given only to a child placing agency
13 or to the department.

14 (7) Before the department arranges a release from a parent
15 or guardian, a representative of the department shall advise the
16 parent or guardian about child placing agencies serving the
17 county and, upon the parent's or guardian's request, shall refer
18 the parent or guardian to a child placing agency. After the
19 release of a child by a parent or guardian to the department, the
20 department shall advise the child placing agencies serving the
21 county that the child is available for adoption.

22 (8) Where a child was released for adoption or committed to
23 a child placing agency, that agency may release that child to the
24 department and the department shall accept the release.

25 (9) Upon release of a child to the department pursuant to
26 this section, the child shall become a state ward.

1 (10) Where applicable under this section, proof of the
2 termination of parental rights, release of parental rights,
3 appointment, authorization, or commitment shall accompany the
4 release.

5 Sec. 29. (1) Except as otherwise provided in this section,
6 a release shall be by a separate instrument executed before a
7 judge of probate or before a referee of the court. If a parent's
8 or guardian's release is executed before a judge or referee as
9 provided in this subsection, a verbatim record of testimony
10 related to execution of the release shall be made.

11 (2) If the person from whom a release is required is in the
12 armed services or is in prison, the release may be executed and
13 acknowledged before a person authorized by law to administer
14 oaths.

15 (3) If the release is to be given by a duly authorized rep-
16 resentative of a child placing agency which has jurisdiction of
17 the child to be adopted, the release may be executed and acknowl-
18 edged before a person authorized by law to administer oaths.

19 (4) If the release is executed in another state or country,
20 the court having jurisdiction over the adoption proceeding in
21 this state shall determine whether the release was executed in
22 accordance with the laws of that state or country and shall not
23 proceed unless it finds that the release was so executed.

24 (5) A release by a parent or a guardian of the child shall
25 not be executed until after such investigation as the court deems
26 proper and until after the judge, referee, or other person
27 authorized in subsection (2) has fully explained to the parent or

1 guardian the legal rights of the parent or guardian and the fact
2 that the parent or guardian by virtue of the release voluntarily
3 relinquishes permanently his or her rights to the child; and, if
4 the child is over 5 years of age, the court has determined that
5 the child is best served by the release.

6 (6) Upon the release of a child by a parent, ~~or guardian,~~
7 the court immediately shall issue an order terminating the rights
8 of that parent ~~or guardian~~ to that child. UPON THE RELEASE OF
9 A CHILD BY THE GUARDIAN OF A PARENT, THE COURT IMMEDIATELY SHALL
10 ISSUE AN ORDER TERMINATING THE RIGHTS OF THAT PARENT TO THAT
11 CHILD. UPON THE RELEASE OF A CHILD BY THE GUARDIAN OF THE CHILD,
12 THE COURT IMMEDIATELY SHALL ISSUE AN ORDER TERMINATING THE RIGHTS
13 OF BOTH PARENTS OR THE SURVIVING PARENT AND THAT GUARDIAN TO THAT
14 CHILD. If the rights of both parents, the surviving parent, or
15 the guardian have been terminated, the court shall issue an order
16 committing the child to the child placing agency or department to
17 which the release was given.

18 (7) The court shall authorize foster care funding pending
19 expiration of the period of appeal or rehearing as provided in
20 sections 64 and 65 of this chapter, and pending disposition of
21 any appeal or rehearing, for all persons committed to a child
22 placing agency. Foster care funding authorized under this sub-
23 section shall exclude the administrative costs of the child plac-
24 ing agency. The costs of foster care shall be paid through the
25 use of the child care fund as provided by section 117c of Act
26 No. 280 of the Public Acts of 1939, as amended, being section
27 400.117c of the Michigan Compiled Laws, or by any successor

1 statute. When foster care funding is authorized pursuant to this
2 subsection, the court shall send a copy of the order to the
3 department. Upon receiving a copy of this order, the department
4 shall reimburse the court child care fund of the county where the
5 court order for foster care funding was made in the total amount
6 of the court ordered payment. The reimbursement shall be made
7 monthly.

8 (8) Entry of an order terminating the rights of both parents
9 pursuant to subsection (6) shall terminate the jurisdiction of
10 the circuit court over the child in any divorce or separate main-
11 tenance action.

12 (9) Upon petition of the same person or persons who executed
13 the release and of the department or child placing agency to
14 which the child was released, the court with which the release
15 was filed may grant a hearing to consider whether the release
16 should be revoked. A release may not be revoked if the child has
17 been placed for adoption unless the child is placed pursuant to
18 section 41(2) of this chapter and a petition for rehearing or
19 claim of appeal is filed within the time required. A verbatim
20 record of testimony related to a petition to revoke a release
21 shall be made.

22 Sec. 36. (1) If a child is claimed to be born out of wed-
23 lock and the mother executes or proposes to execute a release or
24 consent relinquishing her rights to the child or joins in a peti-
25 tion for adoption filed by her husband OR, IF A CHILD IS CLAIMED
26 TO BE BORN OUT OF WEDLOCK AND THE GUARDIAN OF THE MOTHER OR
27 GUARDIAN OF THE CHILD FILES OR PROPOSES TO FILE A PETITION FOR AN

1 ORDER GRANTING AUTHORITY TO EXECUTE A RELEASE OF THE CHILD OR
2 EXECUTE A CONSENT TO THE CHILD'S ADOPTION BY THAT GUARDIAN OR BY
3 ANOTHER PERSON PURSUANT TO SECTION 43A OF THIS CHAPTER, and the
4 release or consent of the natural father cannot be obtained, the
5 judge of probate shall hold a hearing as soon as practical to
6 determine whether the child was born out of wedlock, to determine
7 the identity of the father, and to determine or terminate the
8 rights of the father as provided in this section and sections 37
9 and 39 of this chapter.

10 (2) Proof of service of a notice of intent to release or
11 consent or the putative father's verified acknowledgment of
12 notice of intent to release or consent shall be filed with the
13 court, if the notice was given to the putative father. The court
14 shall request the vital records division of the department of
15 public health to send to the court a copy of any notice of intent
16 to claim paternity of the particular child which the division has
17 received.

18 (3) Notice of the hearing shall be served upon the
19 following:

20 (a) A putative father who has timely filed a notice of
21 intent to claim paternity as provided in section 33 or 34 of this
22 chapter.

23 (b) A putative father who was not served a notice of intent
24 to release or consent at least 30 days before the expected date
25 of confinement specified in the notice of intent to release or
26 consent.

1 (c) Any other male who was not served pursuant to section
2 34(1) of this chapter with a notice of intent to release or
3 consent and who the court has reason to believe may be the father
4 of the child.

5 (4) The notice of hearing shall inform the putative father
6 that his failure to appear at the hearing shall constitute a
7 denial of his interest in custody of the child, which denial
8 shall result in the court's termination of his rights to the
9 child.

10 (5) Proof of service of the notice of hearing required by
11 subsection (3) shall be filed with the court. A verified
12 acknowledgment of service by the party to be served is proof of
13 personal service. Notice of the hearing shall not be required if
14 the putative father is present at the hearing. A waiver of
15 notice of hearing by a person entitled to receive it is
16 sufficient.

17 (6) The court shall receive evidence as to the identity of
18 the father of the child. Based upon the evidence received, the
19 court shall enter a finding identifying the father or declaring
20 that the identity of the father cannot be determined.

21 (7) If the court finds that the father of the child is a
22 person who did not receive either a timely notice of intent to
23 release or consent pursuant to section 34(1) of this chapter or a
24 notice required pursuant to subsection (3), and who has neither
25 waived his right to notice of hearing nor is present at the hear-
26 ing, the court shall adjourn further proceedings until that
27 person is served with a notice of hearing.

1 Sec. 37. (1) If the court has proof that the person whom
2 it determines pursuant to section 36 to be the father of the
3 child was timely served with a notice of intent to release or
4 consent pursuant to section 34(1) or was served with or waived
5 the notice of hearing required by section 36(3), the court may
6 permanently terminate the rights of the putative father under any
7 of the following circumstances:

8 (a) The putative father submits a verified affirmation of
9 his paternity and a denial of his interest in custody of the
10 child.

11 (b) The putative father files a disclaimer of paternity.
12 For purposes of this section, the filing of the disclaimer of
13 paternity shall constitute a waiver of notice of hearing and
14 shall constitute a denial of his interest in custody of the
15 child.

16 (c) The putative father was served with a notice of intent
17 to release or consent in accordance with section 34(1), at least
18 30 days before the expected date of confinement specified in that
19 notice but failed to file an intent to claim paternity either
20 before the expected date of confinement or before the birth of
21 the child.

22 (d) The putative father is given proper notice of hearing in
23 accordance with section 36(3) or 36(5) but either fails to appear
24 at the hearing or appears and denies his interest in custody of
25 the child.

26 (2) If the identity of the father cannot be determined, or
27 if the identity of the father is known but his whereabouts cannot

1 be determined, the court shall take evidence to determine the
2 facts in the matter. The court may terminate the rights of the
3 putative father if the court finds from the evidence that reason-
4 able effort has been made to identify and locate the father and
5 that any of the following circumstances exist:

6 (a) The putative father, whose identity is not known, has
7 not made provision for the child's care and did not provide sup-
8 port for the mother during her pregnancy or during her
9 confinement.

10 (b) The putative father, whose identity is known but whose
11 whereabouts are unknown, has not provided support for the mother
12 FOR AT LEAST 90 DAYS PRECEDING THE HEARING REQUIRED UNDER SECTION
13 36, AND has not shown any interest in the child ~~—~~ and has not
14 made provision for the child's care, for at least 90 days OR THE
15 NUMBER OF DAYS SINCE THE BIRTH OF THE CHILD, WHICHEVER IS LESS,
16 preceding the hearing required under section 36.

17 Sec. 39. (1) If the putative father does not come within
18 the provisions of subsection (2), and if the putative father
19 appears at the hearing and requests custody of the child, the
20 court shall inquire into his fitness and his ability to properly
21 care for the child and shall determine whether the best interests
22 of the child will be served by granting custody to him. If the
23 court finds that it would not be in the best interest of the
24 child to grant custody to the putative father, the court shall
25 terminate his rights to the child.

26 (2) If the putative father has established a custodial
27 relationship with the child or has provided support or care for

1 the mother during pregnancy or for either mother or child after
2 the child's birth during the 90 days before notice of the hearing
3 was served upon him, the rights of the putative father shall not
4 be terminated except by proceedings in accordance with section
5 51(6) of this chapter or section 2 of chapter XIIIA.

6 (3) If the parental rights of the mother are terminated pur-
7 suant to this chapter or other law and if the court awards cus-
8 tody of a child out of wedlock to the putative father, the court
9 shall enter an order granting custody to the putative father and
10 legitimating the child for all purposes. The judge of probate
11 shall duly record the legitimation in accordance with section 111
12 of Act No. 642 of the Public Acts of 1978, as amended, being
13 section 700.111 of the Michigan Compiled Laws.

14 Sec. 43. (1) Subject to this section and sections 44 and
15 51 of this chapter, consent to adoption of a child shall be
16 executed:

17 (a) By each parent of a child to be adopted or the surviving
18 parent, except under the following circumstances:

19 (i) The rights of the parent have been terminated by a court
20 of competent jurisdiction.

21 (ii) The child has been released for the purpose of adoption
22 to a child placing agency or to the department.

23 (iii) A guardian of the child has been appointed.

24 (iv) A guardian of a parent has been appointed.

25 (v) The child is not related to the petitioner within the
26 fifth degree by marriage, blood, or adoption.

1 (vi) A parent having legal custody of the child is married
2 to the petitioner.

3 (b) By the duly authorized representative of the department
4 or of a child placing agency to whom the child has been per-
5 manently committed by an order of the juvenile division of the
6 probate court.

7 (c) By the juvenile division of the probate court having
8 permanent custody of the child.

9 (d) By the duly authorized representative of the department
10 or of a child placing agency to whom the child has been
11 released.

12 (e) By the guardian of the child, if a guardian has been
13 appointed.

14 (f) By the guardian of a parent.

15 (g) By the authorized representative of a child placing
16 agency of another state or country which has authority to consent
17 to adoption.

18 (2) If the child to be adopted is over 14 years of age, that
19 child's consent shall be necessary before the court may enter an
20 order of adoption.

21 (3) If the person to be adopted is an adult, that person's
22 consent shall be necessary before the court may enter an order of
23 adoption, but consent by any other person is not required.

24 (4) If the parent of the child to be adopted is an unemanci-
25 pated minor, that parent's consent is not valid unless a parent,
26 guardian, or guardian ad litem of that minor parent has also
27 executed the consent.

1 (5) The guardian of the child to be adopted shall not
2 execute a consent to that child's adoption pursuant to subsection
3 (1) unless the guardian has first obtained authority to execute
4 the consent from the court which appointed the guardian PURSUANT
5 TO SECTION 43A OF THIS CHAPTER.

6 (6) The guardian of a parent shall not execute a consent to
7 the adoption of the parent's child BY THAT GUARDIAN OR BY ANOTHER
8 PERSON pursuant to subsection (1) unless the guardian has first
9 obtained authority to execute the consent from the court which
10 appointed the guardian PURSUANT TO SECTION 43A OF THIS CHAPTER.
11 The consent shall have the same effect as if the consent were
12 executed by the parent.

13 (7) The parent of a child shall not execute a consent unless
14 ~~the~~ 1 OF THE FOLLOWING APPLIES:

15 (A) THE petitioner is related to the child within the fifth
16 degree by marriage, blood, or adoption.

17 (B) THE PETITIONER IS THE GUARDIAN OF THE CHILD UNDER THE
18 LAWS OF ANOTHER STATE OR COUNTRY AND THAT STATE OR COUNTRY PRO-
19 HIBITS THE GUARDIAN FROM CONSENTING TO THE CHILD'S ADOPTION BY
20 THAT GUARDIAN OR BY ANOTHER PERSON, AND THE PETITIONER WAS
21 APPOINTED THE CHILD'S GUARDIAN BEFORE THE EFFECTIVE DATE OF THE
22 AMENDATORY ACT THAT ADDED THIS SUBDIVISION.

23 (C) THE PETITIONER IS THE LIMITED GUARDIAN OF THE CHILD
24 UNDER SECTION 424A OF THE REVISED PROBATE CODE, ACT NO. 642 OF
25 THE PUBLIC ACTS OF 1978, BEING SECTION 700.424A OF THE MICHIGAN
26 COMPILED LAWS, AND THE PETITIONER WAS APPOINTED THE CHILD'S

1 LIMITED GUARDIAN BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT
2 THAT ADDED THIS SUBDIVISION.

3 (8) If the petitioner for adoption is married to the parent
4 having legal custody of the child and that parent has joined the
5 petitioner in filing the petition for adoption, that parent shall
6 not execute a consent to the adoption. The consent of the parent
7 who does not have legal custody of the child and whose parental
8 rights have not been terminated shall be executed before the
9 court may enter an order of adoption under section 56 of this
10 chapter.

11 SEC. 43A. (1) IF THE GUARDIAN OF A CHILD DESIRES TO OBTAIN
12 AUTHORITY TO EXECUTE A RELEASE OF THE CHILD AS REQUIRED BY SEC-
13 TION 28(4) OF THIS CHAPTER OR EXECUTE A CONSENT TO THE CHILD'S
14 ADOPTION BY THAT GUARDIAN OR BY ANOTHER PERSON AS REQUIRED BY
15 SECTION 43(5) OF THIS CHAPTER, THE GUARDIAN SHALL PETITION THE
16 COURT THAT APPOINTED THE GUARDIAN FOR AN ORDER GRANTING THAT
17 AUTHORITY TO THE GUARDIAN.

18 (2) IF THE GUARDIAN OF A PARENT OF A CHILD DESIRES TO OBTAIN
19 AUTHORITY TO EXECUTE A RELEASE OF THE PARENT'S CHILD AS REQUIRED
20 BY SECTION 28(5) OF THIS CHAPTER OR EXECUTE A CONSENT TO THE
21 ADOPTION OF THE PARENT'S CHILD BY THAT GUARDIAN OR BY ANOTHER
22 PERSON AS REQUIRED BY SECTION 43(6) OF THIS CHAPTER, THE GUARDIAN
23 SHALL PETITION THE COURT WHICH APPOINTED THE GUARDIAN FOR AN
24 ORDER GRANTING THAT AUTHORITY TO THE GUARDIAN.

25 (3) NOTICE OF HEARING OF A PETITION DESCRIBED IN SUBSECTION
26 (1) OR (2) FOR AUTHORITY TO EXECUTE A RELEASE OF THE CHILD OR
27 EXECUTE A CONSENT TO THE CHILD'S ADOPTION BY THAT GUARDIAN OR BY

1 ANOTHER PERSON SHALL BE SERVED BY THE GUARDIAN ON THE INTERESTED
2 PARTIES DESCRIBED IN SECTION 24A(4) OF THIS CHAPTER. THE NOTICE
3 OF HEARING SHALL BE SERVED ON THE INTERESTED PARTIES AS PRE-
4 SCRIBED BY THE MICHIGAN COURT RULES.

5 (4) UPON HEARING, THE COURT SHALL AUTHORIZE THE GUARDIAN OF
6 THE CHILD OR THE GUARDIAN OF THE PARENT TO EXECUTE A RELEASE OF
7 THE CHILD OR EXECUTE A CONSENT TO THE CHILD'S ADOPTION BY THAT
8 GUARDIAN OR BY ANOTHER PERSON IF THE COURT IS SATISFIED THAT THE
9 BEST INTERESTS OF THE CHILD WILL BE SERVED BY THE RELEASE OF THE
10 CHILD OR THE CONSENT TO THE CHILD'S ADOPTION, SUBJECT TO
11 SECTION 31 OF THIS CHAPTER.

12 Sec. 51. (1) Not later than 14 days after receipt of the
13 report of investigation, except as provided in subsections (2)
14 and (5), the judge of probate shall examine the report and shall
15 enter an order terminating the rights of ~~the child's parent or~~
16 ~~parents, if there was a parental consent~~ A PARENT OF THE CHILD,
17 IF THAT PARENT OR THAT PARENT'S GUARDIAN EXECUTED A CONSENT TO
18 THE CHILD'S ADOPTION, or the rights of any person in loco paren-
19 tis, if there was a consent by other than parents, OR THE RIGHTS
20 OF THE CHILD'S PARENT OR PARENTS, IF THERE WAS A CONSENT BY THE
21 GUARDIAN OF THE CHILD if the judge is satisfied as to both of the
22 following:

23 (a) The genuineness of consent to the adoption and the legal
24 authority of the person or persons signing the consent.

25 (b) The best interests of the adoptee will be served by the
26 adoption.

1 (2) If it is necessary to hold a hearing before entering an
2 order terminating the rights of a parent, parents, or a person in
3 loco parentis, or if other good cause is shown, the time speci-
4 fied in subsection (1) shall be extended for an additional 14-day
5 period.

6 (3) Upon entry of an order terminating rights of parents or
7 persons in loco parentis, a child shall be a ward of the court
8 and a consent to adoption executed pursuant to section 43 of this
9 chapter shall not thereafter be withdrawn. Entry of the order
10 shall terminate the jurisdiction of the circuit court over the
11 child in a divorce or separate maintenance action. If the peti-
12 tioner for adoption is married to the parent having legal custody
13 of the child, the child shall not be made a ward of the court
14 after termination of the rights of the other parent.

15 (4) Without making the child a ward of the court, the court
16 may authorize placement of a child if the child is placed for
17 adoption in this state by a public or licensed private agency of
18 another state or country and if the law of the sending state or
19 country prohibits the giving of consent to adoption at the time
20 of placement. Before placement of the child in that instance,
21 the sending agency shall tender evidence as the court requires to
22 demonstrate that the agency possesses the necessary authority to
23 consent to the adoption at the time of entry of the final order
24 of adoption. After the sending agency has given evidence of its
25 ability to consent, the agency shall not do anything to jeopar-
26 dize its ability to grant the required consent before entry of

1 the final order of adoption. After the sending agency gives its
2 consent for the adoption, that consent shall not be withdrawn.

3 (5) If a parent having legal custody of the child is married
4 to the petitioner for adoption, the judge of probate shall not
5 enter an order terminating the rights of that parent.

6 (6) If the parents of a child are divorced, or if the par-
7 ents are unmarried but the father has acknowledged paternity or
8 is a putative father who meets the conditions in section 39(2) of
9 this chapter, and if the parent having legal custody of the child
10 subsequently marries and that parent's spouse petitions to adopt
11 the child, the court upon notice and hearing may issue an order
12 terminating the rights of the other parent if both of the follow-
13 ing occur:

14 (a) The other parent, having the ability to support, or
15 assist in supporting, the child, has failed or neglected to pro-
16 vide regular and substantial support for the child or if a sup-
17 port order has been entered, has failed to substantially comply
18 with the order, for a period of 2 years or more before the filing
19 of the petition.

20 (b) The other parent, having the ability to visit, contact,
21 or communicate with the child, has regularly and substantially
22 failed or neglected to do so for a period of 2 years or more
23 before the filing of the petition.

24 (7) IF THE PETITIONER FOR ADOPTION AND THE PARENT, PARENTS,
25 OR THE PERSON IN LOCO PARENTIS OF THE CHILD KNOW EACH OTHER'S
26 IDENTITY, THE COURT SHALL NOT FOR THAT REASON ALONE DETERMINE

1 THAT THE BEST INTERESTS OF THE CHILD WILL NOT BE SERVED BY THE
2 ADOPTION.

3 (8) ~~(7)~~ Unless otherwise ordered by the court, the pro-
4 spective adoptive parents with whom a child is placed pursuant to
5 a court order under this section may consent to all medical, sur-
6 gical, psychological, educational, and related services for the
7 child.

8 Sec. 68. (1) All of the nonidentifying information required
9 by section 27(1) and (2) of this chapter shall be made available
10 in writing to the adoptive parents at the time of placement and
11 thereafter within 63 days after receipt of a request for informa-
12 tion, and shall be made available in writing to an adult adoptee
13 within 63 days after receipt of a request for information.

14 (2) Within 63 days after a request for information is
15 received, a child placing agency, court, or the department shall
16 provide in writing to the biological parent or adult biological
17 sibling requesting the information all of the nonidentifying
18 information described in section 27(1) and (2) of this chapter.

19 (3) Within 63 days after a request for identifying informa-
20 tion is received, a child placing agency, court, or the depart-
21 ment shall provide in writing to the biological parent or adult
22 biological sibling requesting the information the adult adoptee's
23 most recent name and address and the identifying information
24 described in section 27(3) of this chapter if the adult adoptee
25 has given written consent to release of the information pursuant
26 to this chapter.

1 (4) If the department or a child placing agency receives a
2 request for adoption record information in their possession from
3 an adult adoptee, biological parent, or adult biological sibling,
4 the department or child placing agency shall provide the person
5 requesting the information with the identity of the court that
6 confirmed the adoption within 28 days after receipt of the
7 request. If a court receives such a request, the court shall
8 provide the person requesting the information with the identity
9 of the child placing agency that handled the adoption.

10 (5) If the court that terminated parental rights receives
11 from the biological parents or adult biological siblings of the
12 adult adoptee a request for the identity of the agency, court, or
13 department to which the child was committed, the court shall pro-
14 vide in writing the name of that agency, court, or department, if
15 known, within 28 days after receipt of the request.

16 (6) For adoptions in which the biological parents' rights
17 were terminated before September 12, 1980, a child placing
18 agency, a court, or the department having the records of an
19 adoptee and having received a written request from that adoptee
20 as an adult for information identifying the adoptee's biological
21 parents, shall release the identifying information described in
22 section 27(3) of this chapter and other identifying information
23 on file with the department as specified in section 27(5) of this
24 chapter, in the following manner:

25 (a) All information on both biological parents shall be
26 released to the adult adoptee, if both biological parents have on

1 file with the department a statement consenting to release of
2 identifying information.

3 (b) Information pertaining to 1 of the biological parents
4 shall be released to the adult adoptee if that biological parent
5 has on file with the department a statement consenting to release
6 of identifying information.

7 (c) Information pertaining to 1 of the biological parents
8 shall be released to the adult adoptee if that parent is
9 deceased, or if a child of that parent who is now an adult and
10 who is a sibling of the adoptee has on file with the department a
11 consent to the release of identifying information of that
12 deceased parent.

13 (d) All information on both biological parents shall be
14 released to the adult adoptee, if both biological parents are
15 deceased.

16 (7) For all adoptions in which the biological parents'
17 rights were terminated after September 12, 1980, an adoptee not
18 less than 18 years of age shall have the right to obtain the
19 identifying information described in section 27(3) of this chap-
20 ter and any additional information on file with the department as
21 specified in section 27(5) of this chapter, except that if a bio-
22 logical parent has filed a statement currently in effect with the
23 department denying consent to have identifying information
24 released, identifying information shall not be released about
25 that parent. The information shall be provided within 63 days
26 after the date of the request.

1 (8) Upon receipt of a written request for identifying
2 information from an adult adoptee, a child placing agency, court,
3 or the department, if it maintains that adoption file, shall
4 request information from the department file as specified in sec-
5 tion 27(5) of this chapter, pursuant to the requirements of this
6 section. Upon receipt of a response from the department file, a
7 child placing agency, court, or the department shall notify the
8 adoptee in writing, within 28 days after the receipt of the
9 response, of the identifying information to which the adoptee is
10 entitled, or, if the identifying information cannot be released
11 pursuant to this section, the reason why the information cannot
12 be released. The child placing agency, court, or the department
13 shall retain a copy of the notice sent to the adult adoptee.
14 Once the identifying information is released to the adult adopt-
15 ee, and upon the request of the adult adoptee, biological parent,
16 adult biological sibling, or adoptive parent, the child placing
17 agency, court, or the department shall provide for counseling or
18 shall provide a list of adoption support groups to that person.

19 (9) If a child placing agency, court, or the department
20 receives written information concerning a physician-verified med-
21 ical or genetic condition of a person biologically related to an
22 adoptee and a request that the information be transmitted to the
23 adoptee because of the serious threat it poses to the adoptee's
24 life, the child placing agency, court, or department shall send a
25 written copy of the information by first-class mail within 7 days
26 after the request is received to the adoptee at his or her last
27 known address. If the adoptee is less than 18 years of age, the

1 information shall be sent by first-class mail within 7 days after
2 the request is received to the adoptive parents at their last
3 known address.

4 (10) If the letter described in subsection (9) is returned
5 undelivered, the agency, court, or department shall make a rea-
6 sonable effort to find the most recent address of the adoptee or
7 minor adoptee's parents and shall again send the information by
8 first-class mail within 21 days after receiving the returned
9 letter.

10 (11) If a child placing agency, court, or the department
11 receives written information concerning a physician-verified med-
12 ical or genetic condition of a person biologically related to an
13 adoptee, and the condition is not life-threatening to the adopt-
14 ee, the child placing agency, court, or department shall place
15 the information in its adoption files. If the child placing
16 agency, court, or department receives a written request for the
17 information from the adult adoptee or minor adoptee's adoptive
18 parents, it shall release a written copy of the information to
19 the adult adoptee or to the minor adoptee's adoptive parents
20 within 63 days after the request for the information was made.

21 (12) If a child placing agency, court, or the department
22 receives written information concerning a physician-verified med-
23 ical or genetic condition that threatens the life of an adoptee
24 and for which a biologically related person could give
25 life-saving aid, and receives a request from or on behalf of the
26 adoptee that the information be transmitted, the child placing
27 agency, court, or department shall send a written copy of the

1 information by first-class mail within 7 days after the request
2 is received to the biological parents or adult biological sib-
3 lings of the adoptee at their last known address.

4 (13) If the information described in subsection (12) is
5 returned undelivered, the agency, court, or department shall make
6 a reasonable effort to find the most recent address of the bio-
7 logical parents or adult biological siblings and shall again send
8 the information by first-class mail within 21 days after receiv-
9 ing the returned letter.

10 (14) If a child placing agency, court, or the department
11 provides an adoptee with the name of either of the adoptee's bio-
12 logical parents, that child placing agency, court, or department
13 shall notify the department of public health of that fact. Upon
14 receipt of notification by the child placing agency, court, or
15 department, the department of public health shall insure that the
16 original birth certificate on file for the adoptee has been
17 sealed and that a new birth certificate has been prepared in con-
18 formance with section 67 of this chapter.

19 (15) An employee or agent of a child placing agency, the
20 court, or the department, who intentionally releases identifying
21 information in violation of this section, is guilty of a
22 misdemeanor.

23 (16) This section ~~also~~ applies to ~~a stepparent adoption~~
24 ~~and to the adoption of a child related to the petitioner within~~
25 ~~the fifth degree by marriage, blood, or adoption~~ ALL ADOPTIONS
26 UNDER THIS CHAPTER.

1 (17) As used in this section, "adult adoptee" means a person
2 who was adopted as a child who is now 18 years of age or older or
3 a person who was 18 years of age or older at the time of
4 adoption.

5 (18) A child placing agency, a court, and the department may
6 require a fee of \$60.00 or the actual cost of supplying the
7 information, whichever is less, for supplying information under
8 this section. The child placing agency, the court, and the
9 department may waive a part or all of the fee in case of indi-
10 gency or hardship.