

HOUSE BILL No. 4418

February 28, 1991, Introduced by Reps. Randall, Power, Dalman, McNutt, Walberg, Trim, Strand, DeLange, Bender, Sparks, Bobier, Knight, Van Singel, Kosteva and Willis Bullard and referred to the Committee on Judiciary.

A bill to amend sections 22, 24, 26, 31, 41, 43, 46, 51, 54, and 62 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,"

sections 22, 26, and 43 as amended by Act No. 175 of the Public Acts of 1990 and sections 41, 46, and 51 as amended by Act No. 72

1 Section 1. Sections 22, 24, 26, 31, 41, 43, 46, 51, 54, and
2 62 of chapter X of Act No. 288 of the Public Acts of 1939, sec-
3 tions 22, 26, and 43 as amended by Act No. 175 of the Public Acts
4 of 1990 and sections 41, 46, and 51 as amended by Act No. 72 of
5 the Public Acts of 1982, being sections 710.22, 710.24, 710.26,
6 710.31, 710.41, 710.43, 710.46, 710.51, 710.54, and 710.62 of the
7 Michigan Compiled Laws, are amended and sections 24b and 27a are
8 added to chapter X to read as follows:

10 Sec. 22. As used in this chapter:

(b) "Best interests of the adoptee" or "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court to be applied to give the adoptee permanence at the earliest possible date:

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1 (ii) The capacity and disposition of the adopting person or
2 persons or the putative father to give the adoptee love, affec-
3 tion, and guidance, and to educate and create a milieu that fos-
4 ters the religion, racial identity, and culture of the adoptee.

5 (iii) The capacity and disposition of the adopting person or
6 persons or the putative father to provide the adoptee with food,
7 clothing, education, permanence, medical care or other remedial
8 care recognized and permitted under the laws of this state in
9 place of medical care, and other material needs.

10 (iv) The length of time the adoptee has lived in a stable,
11 satisfactory environment, and the desirability of maintaining
12 continuity.

13 (v) The permanence as a family unit of the proposed adoptive
14 home, or the home of the putative father.

15 (vi) The moral fitness of the adopting person or persons or
16 of the putative father.

17 (vii) The mental and physical health of the adopting person
18 or persons or of the putative father, and of the adoptee.

19 (viii) The home, school, and community record of the
20 adoptee.

21 (ix) The reasonable preference of the adoptee, if the
22 adoptee is 14 years of age or less and if the court deems the
23 adoptee to be of sufficient age to express a preference.

24 (x) The ability and willingness of the adopting person or
25 persons to adopt the adoptee's siblings.

1 (xi) Any other factor considered by the court to be relevant
2 to a particular adoption proceeding, or to a putative father's
3 request for child custody.

4 (c) "Biological parent" means a person whose rights were
5 terminated pursuant to this chapter or chapter XIIA.

6 (d) "Born out of wedlock" means a child ~~begotten~~ CONCEIVED
7 and born to a woman who was not married from the conception to
8 the date of birth of the child, or a child ~~which~~ THAT the court
9 has determined to be a child born during a marriage but not the
10 issue of that marriage.

11 (e) "Child" means a person less than 18 years of age.

12 (f) "Child placing agency" means a private organization
13 licensed to place children for adoption.

14 (g) "Consent" means a duly executed document in which all
15 parental rights over a specific child are voluntarily relin-
16 quished to the court for adoptive placement with the petitioner.

17 (h) "Court" means the probate court of this state, and when
18 the context requires, the court having jurisdiction over adoption
19 in another state or country.

20 (i) "Department" means the state department of social
21 services.

22 (j) "Petitioner" means ~~the~~ A person or persons who file an
23 adoption petition with the court.

24 (k) "Release" means a duly executed document in which all
25 parental rights over a specific child are voluntarily relin-
26 quished to the department or to a child placing agency.

1 (l) "Stepparent" means a person who adopts a child 1 of
2 whose parents is the adopting person's spouse.

3 (m) "Within the fifth degree by marriage, blood, or
4 adoption" means any of the following relationships: parent,
5 step-parent, grandparent, step-grandparent, brother,
6 step-brother, sister, step-sister, uncle, step-uncle, aunt,
7 step-aunt, first cousin, step-first cousin, great aunt,
8 step-great aunt, great uncle, step-great uncle, great grandpar-
9 ent, step-great grandparent, first cousin once removed,
10 step-first cousin once removed, great great grandparent,
11 step-great great grandparent, great great uncle, step-great great
12 uncle, great great aunt, step-great great aunt, great great great
13 grandparent, or step-great great great grandparent.

14 Sec. 24. (1) ~~if~~ EXCEPT AS OTHERWISE PROVIDED IN
15 SECTION 24B OF THIS CHAPTER, IF a person desires to adopt a child
16 or an adult and to bestow upon the adoptee his family name, or to
17 adopt a child or an adult without a change of name, with the
18 intent to make the adoptee his heir, that person, together with
19 his ~~wife~~ or her ~~husband~~ SPOUSE, if married, shall file a
20 petition with the probate court of the county in which the peti-
21 tioner resides or where the adoptee is found.

22 (2) The petition for adoption shall be verified by each
23 petitioner and shall contain the following information:

24 (a) The name, date and place of birth, and place of resi-
25 dence of each petitioner, including the maiden name of the adopt-
26 ing mother.

1 (b) The name, date and place of birth, and place of
2 residence if known of the adoptee.

3 (c) The relationship, if any, of the adoptee to the
4 petitioner.

5 (d) The full name by which the adoptee ~~shall~~ IS TO be
6 known after adoption.

7 (e) The full description of the property, if any, of the
8 adoptee.

9 (f) The names of the parents of the adoptee, and the address
10 of each living parent if known, except that the names and
11 addresses of the parents may be omitted if the rights of the par-
12 ents have been terminated by a court of competent jurisdiction.

13 (g) The name and address of the guardian of the person or
14 estate of the adoptee, if any has been appointed.

15 SEC. 24B. (1) A PERSON WHO DESIRES TO ADOPT A CHILD WHO IS
16 NOT RELATED TO THAT PERSON WITHIN THE FIFTH DEGREE BY MARRIAGE,
17 BLOOD, OR ADOPTION OR DESIRES TO ADOPT AN EXPECTED CHILD AFTER
18 THE CHILD'S BIRTH AND THE CHILD WILL NOT BE RELATED TO THAT
19 PERSON WITHIN THE FIFTH DEGREE BY MARRIAGE, BLOOD, OR ADOPTION
20 MAY ELECT TO FILE A PETITION FOR ADOPTION UNDER THIS SECTION.

21 (2) A PERSON WHO FILES A PETITION FOR ADOPTION UNDER THIS
22 SECTION AND HIS OR HER SPOUSE, IF MARRIED, SHALL FILE THE PETI-
23 TION WITH THE PROBATE COURT OF THE COUNTY IN WHICH THAT PERSON OR
24 THE MOTHER OF THE EXPECTED CHILD RESIDES, OR WHERE THE ADOPTEE IS
25 FOUND.

26 (3) A PETITION FOR ADOPTION UNDER THIS SECTION IS TO BE
27 VERIFIED BY EACH PETITIONER AND CONTAIN THE INFORMATION DESCRIBED

1 IN SECTION 24(2)(A) TO (F) OF THIS CHAPTER. IF THE PETITION FOR
2 ADOPTION IS FOR AN EXPECTED CHILD, THE PETITION IS TO INCLUDE THE
3 EXPECTED BIRTH DATE OF THE CHILD.

4 (4) A PETITIONER UNDER THIS SECTION IS TO BE PERSONALLY
5 SELECTED BY 1 OR BOTH PARENTS WHO HAVE THE AUTHORITY TO PLACE A
6 CHILD IN THE HOME OF THE PETITIONER FOR THE PURPOSE OF ADOPTION
7 PURSUANT TO SECTION 41(4) OF THIS CHAPTER. ONE OR BOTH PARENTS
8 SHALL SELECT A PETITIONER ON THE BASIS OF SPECIFIC INFORMATION
9 ABOUT THE PETITIONER.

10 (5) A PETITION FOR ADOPTION UNDER THIS SECTION IS TO BE
11 ACCOMPANIED BY A VERIFIED WRITTEN STATEMENT OF EACH PARENT WHOSE
12 RIGHTS TO A CHILD TO BE ADOPTED HAVE NOT BEEN TERMINATED OR OF
13 EACH PARENT OF AN EXPECTED CHILD TO BE ADOPTED AFTER HIS OR HER
14 BIRTH INDICATING THAT THE PARENT DESIRES TO HAVE THE PETITIONER
15 ADOPT THE ADOPTEE.

16 (6) SUBJECT TO THIS SECTION, THE RELEASE OF INFORMATION FROM
17 ADOPTION RECORDS PURSUANT TO THIS ACT APPLIES TO AN ADOPTION
18 UNDER THIS SECTION.

19 (7) THIS SECTION DOES NOT APPLY IF A CHILD AVAILABLE FOR
20 ADOPTION IS UNDER THE JURISDICTION OF THE COURT PURSUANT TO
21 SECTION 2(B) OF CHAPTER XIIA AND THE PARENT OF THAT CHILD DOES
22 NOT HAVE PHYSICAL CUSTODY OF THE CHILD.

23 Sec. 26. (1) Subsequent to or concurrent with the filing of
24 the adoption petition but before the hearing on the petition by
25 the court, the petitioner, the department, an employee or agent
26 of the court, or a child placing agency, as appropriate, shall
27 file the following documentation:

1 (a) Except in instances of parental consent to adoption, a
2 copy of each release or order terminating parental rights over
3 the child ~~which~~ THAT has a bearing upon the authority of a
4 person to execute the consent to adoption.

5 (b) A copy of the order of commitment, if a commitment was
6 made to a child placing agency or to the department.

7 (c) Proof of a guardian's appointment and authorization to
8 execute the release or consent to the child's adoption.

9 (d) A copy of the consent to adoption as required in this
10 chapter.

11 (e) A copy of the adoptee's birth certificate, verification
12 of birth, hospital birth registration, or other satisfactory
13 proof of date and place of birth, if obtainable, unless this
14 filing is waived by written order of the judge of probate.

15 (f) The report of the investigation prepared pursuant to
16 section 46 of this chapter.

17 (g) If the petition alleges nonsupport and noncommunication
18 by a parent, as described in section 51(6), an affidavit verify-
19 ing that fact.

20 (H) A COPY OF THE MEDICAL HISTORY FORM PREPARED PURSUANT TO
21 SECTION 41(10) OF THIS CHAPTER.

22 (I) ~~(h)~~ Any additional facts considered necessary by the
23 court.

24 (2) Before or at the time of the hearing on the adoption
25 petition, the court shall inform the adoptee, if he or she is
26 14 years old or older, and the adoptive parents of the provisions
27 described in sections 68 and 68a. This subsection also applies

1 to a stepparent adoption and the adoption of a child related to
 2 the petitioner within the fifth degree by marriage, blood, or
 3 adoption.

4 (3) Before or at the time of the hearing on the adoption
 5 petition, the court shall provide the adoptee, if he or she is 14
 6 years old or older, and the adoptive parents with a list of adop-
 7 tion support groups. This subsection also applies to a steppar-
 8 ent adoption and to the adoption of a child related to the peti-
 9 tioner within the fifth degree by marriage, blood, or adoption.

10 SEC. 27A. (1) NOTWITHSTANDING SECTIONS 27, 67, AND 68 OF
 11 THIS CHAPTER, UPON RECEIPT OF A WRITTEN AUTHORIZATION OF A PARENT
 12 OF A CHILD OR AN EXPECTED CHILD TO BE PLACED FOR ADOPTION, A
 13 CHILD PLACING AGENCY, THE COURT, OR THE DEPARTMENT HANDLING THE
 14 ADOPTION MAY TO THE EXTENT AUTHORIZED IN THE WRITTEN AUTHORIZA-
 15 TION DO 1 OR BOTH OF THE FOLLOWING UNTIL THE ENTRY OF AN ORDER OF
 16 ADOPTION PURSUANT TO SECTION 56 OF THIS CHAPTER:

17 (A) PROVIDE IDENTIFYING INFORMATION REGARDING THAT PARENT TO
 18 A PROSPECTIVE ADOPTIVE PARENT.

19 (B) ARRANGE FOR THAT PARENT AND A PROSPECTIVE ADOPTIVE
 20 PARENT WHO HAS EXECUTED A WRITTEN AUTHORIZATION PURSUANT TO
 21 SUBSECTION (2) TO MEET EACH OTHER AND, IF AUTHORIZED BY THAT
 22 PARENT, DISCUSS 1 OR BOTH OF THE FOLLOWING:

23 (i) THE PLACEMENT OF THE CHILD OR EXPECTED CHILD INTO THE
 24 HOME OF THE PROSPECTIVE ADOPTIVE PARENT FOR THE PURPOSE OF
 25 ADOPTION.

26 (ii) IDENTIFYING INFORMATION ABOUT THAT PARENT.

1 (2) NOTWITHSTANDING SECTIONS 27, 67, AND 68 OF THIS CHAPTER,
2 UPON RECEIPT OF A WRITTEN AUTHORIZATION OF A PROSPECTIVE ADOPTIVE
3 PARENT OF A CHILD OR AN EXPECTED CHILD TO BE PLACED FOR ADOPTION,
4 A CHILD PLACING AGENCY, THE COURT, OR THE DEPARTMENT HANDLING THE
5 ADOPTION MAY TO THE EXTENT AUTHORIZED IN THE WRITTEN AUTHORIZA-
6 TION DO 1 OR BOTH OF THE FOLLOWING UNTIL THE ENTRY OF AN ORDER OF
7 ADOPTION PURSUANT TO SECTION 56 OF THIS CHAPTER:

8 (A) PROVIDE IDENTIFYING INFORMATION REGARDING THAT PROSPEC-
9 TIVE ADOPTIVE PARENT TO THE PARENT OR PARENTS OF THE CHILD OR
10 EXPECTED CHILD.

11 (B) ARRANGE FOR THAT PROSPECTIVE ADOPTIVE PARENT AND A
12 PARENT OF THE CHILD OR EXPECTED CHILD, WHO HAS EXECUTED A WRITTEN
13 AUTHORIZATION PURSUANT TO SUBSECTION (1), TO MEET EACH OTHER AND,
14 IF AUTHORIZED BY THAT PROSPECTIVE ADOPTIVE PARENT, DISCUSS 1 OR
15 BOTH OF THE FOLLOWING:

16 (i) THE PLACEMENT OF THE CHILD OR EXPECTED CHILD INTO THE
17 HOME OF THE PROSPECTIVE ADOPTIVE PARENT FOR THE PURPOSE OF
18 ADOPTION.

19 (ii) IDENTIFYING INFORMATION ABOUT THAT PROSPECTIVE ADOPTIVE
20 PARENT.

21 (3) A WRITTEN AUTHORIZATION OF A PARENT OF A CHILD OR AN
22 EXPECTED CHILD THAT IS EXECUTED PURSUANT TO SUBSECTION (1) OR A
23 WRITTEN AUTHORIZATION OF A PROSPECTIVE ADOPTIVE PARENT THAT IS
24 EXECUTED PURSUANT TO SUBSECTION (2) SHALL BE ON A FORM PRESCRIBED
25 BY THE DEPARTMENT.

26 (4) A WRITTEN AUTHORIZATION OF A PARENT OF A CHILD OR AN
27 EXPECTED CHILD THAT IS EXECUTED PURSUANT TO SUBSECTION (1) OR A

1 WRITTEN AUTHORIZATION OF A PROSPECTIVE ADOPTIVE PARENT THAT IS
2 EXECUTED PURSUANT TO SUBSECTION (2) MAY BE REVOKED AT ANY TIME ON
3 A FORM PRESCRIBED BY THE DEPARTMENT.

4 (5) A CHILD PLACING AGENCY, THE COURT, OR THE DEPARTMENT
5 HANDLING AN ADOPTION SHALL KEEP ON FILE EACH WRITTEN AUTHORIZA-
6 TION THAT IS EXECUTED PURSUANT TO SUBSECTION (1) OR (2) AND EACH
7 WRITTEN REVOCATION THAT IS EXECUTED PURSUANT TO SUBSECTION (4)
8 THAT IS RECEIVED BY THE CHILD PLACING AGENCY, THE COURT, OR THE
9 DEPARTMENT.

10 (6) THIS SECTION DOES NOT PROHIBIT A PARENT OF A CHILD OR AN
11 EXPECTED CHILD WHO IS TO BE PLACED FOR ADOPTION AND A PROSPECTIVE
12 ADOPTIVE PARENT OF THAT CHILD OR EXPECTED CHILD FROM EXCHANGING
13 IDENTIFYING INFORMATION OR MEETING EACH OTHER BEFORE A CHILD
14 PLACING AGENCY, THE COURT, OR THE DEPARTMENT BEGINS TO HANDLE AN
15 ADOPTION PROCEEDING TO PLACE THAT ADOPTEE INTO THE HOME OF THAT
16 PROSPECTIVE ADOPTIVE PARENT FOR THE PURPOSE OF ADOPTION.

17 Sec. 31. (1) ~~if~~ EXCEPT AS PROVIDED IN SECTION 41 OF THIS
18 CHAPTER, IF a child is born out of wedlock and the release or
19 consent of the ~~natural~~ BIOLOGICAL father cannot be obtained,
20 the child ~~shall~~ IS not TO be placed for adoption until the
21 parental rights of the father are terminated by the court as pro-
22 vided in section 37 or 39 of this chapter, by the court pursuant
23 to chapter ~~12a~~ XIIIA , or by a court of competent jurisdiction
24 in another state or country.

25 (2) Pending the termination or other disposition of the
26 rights of the father of a child born out of wedlock, the mother
27 may execute a release terminating her rights to the child. If

1 the mother releases the child, the child placing agency or
2 department to which the child is released may file a petition of
3 dependency or neglect pursuant to chapter ~~+2a~~ XIIIA. Pending
4 disposition of the dependency or neglect petition, the court may
5 enter an order authorizing temporary care of the child.

6 (3) At the request of the mother, her formal execution of a
7 release or consent ~~shall be~~ IS delayed until after court deter-
8 mination of the status of the putative father's request for cus-
9 tody of the child.

10 Sec. 41. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (4), A
11 child ~~shall~~ IS not TO be placed in a home for the purpose of
12 adoption until an order terminating parental rights has been
13 entered pursuant to this chapter or chapter XIIIA. After an order
14 terminating parental rights has been entered, the court shall
15 enter any appropriate orders pursuant to sections 45, 46, and 51
16 of this chapter. ~~Such~~ THOSE orders ~~shall~~ ARE not TO be with-
17 held because the period specified for a rehearing or an appeal as
18 of right has not expired, or because of the pendency of ~~any~~ A
19 rehearing or appeal as of right.

20 (2) If an order terminating parental rights is entered pur-
21 suant to this chapter or chapter XIIIA, the child may be placed in
22 a home for the purpose of adoption during the period specified
23 for a rehearing or an appeal as of right and the period during
24 which a rehearing or appeal as of right is pending. ~~When~~ IF a
25 child placing agency, the court, or the department places a child
26 pursuant to this subsection, it shall inform the person or

1 persons in whose home the child is placed that an adoption will
2 not be ordered until 1 of the following occurs:

3 (a) The petition for rehearing is granted, ~~at the~~
4 ~~rehearing~~ the order terminating parental rights is not modified
5 or set aside AT THE REHEARING, and ~~subsequently~~ the period for
6 appeal as of right to the court of appeals ~~has expired~~ EXPIRES
7 without an appeal being filed.

8 (b) The petition for rehearing is denied and the period for
9 appeal as of right to the court of appeals ~~has expired~~ EXPIRES
10 without an appeal being filed.

11 (c) There is a decision of the court of appeals affirming
12 the order terminating parental rights.

13 (3) AS USED IN SUBSECTION (4), "CUSTODY" MEANS PHYSICAL CUS-
14 TODY OF A CHILD BY THE CHILD'S PARENT THAT IS NOT IN VIOLATION OF
15 A CUSTODY ORDER OF A COURT OF COMPETENT JURISDICTION, EXCLUDING
16 PHYSICAL CUSTODY DURING VISITATION PERIODS SUBJECT TO A COURT
17 ORDER.

18 (4) A PARENT WHO HAS CUSTODY OF A CHILD MAY PLACE THE CHILD
19 IN THE HOME OF A PETITIONER FOR THE PURPOSE OF ADOPTION BEFORE AN
20 ORDER TERMINATING PARENTAL RIGHTS HAS BEEN ENTERED PURSUANT TO
21 THIS CHAPTER OR CHAPTER XIIA IF ALL OF THE FOLLOWING REQUIREMENTS
22 ARE MET:

23 (A) THE PETITION FOR ADOPTION HAS BEEN FILED UNDER
24 SECTION 24B OF THIS CHAPTER.

25 (B) A CHILD PLACING AGENCY HAS CONDUCTED AN INVESTIGATION
26 AND FILED A REPORT WITH THE COURT PURSUANT TO SECTION 46 OF THIS
27 CHAPTER.

1 (C) THE CHILD PLACING AGENCY THAT CONDUCTED THE
2 INVESTIGATION AND FILED THE REPORT AS PROVIDED IN SUBDIVISION (B)
3 FILES A WRITTEN APPROVAL OF ADOPTIVE PLACEMENT WITH THE COURT, OR
4 THE COURT APPROVES THE PLACEMENT PURSUANT TO SUBSECTION (5). THE
5 CHILD PLACING AGENCY SHALL FILE THE WRITTEN APPROVAL OF ADOPTIVE
6 PLACEMENT NOT MORE THAN 30 DAYS BEFORE THE PLACEMENT OR AT THE
7 TIME OF THE PLACEMENT OF THE CHILD INTO THE HOME OF THE
8 PETITIONER.

9 (5) IF A CHILD PLACING AGENCY DOES NOT APPROVE OF OR DENIES
10 A REQUEST MADE BY A PARENT TO PLACE A CHILD PURSUANT TO SUBSEC-
11 TION (4), THE PARENT AND THE PETITIONER MAY PETITION THE COURT
12 FOR APPROVAL TO PLACE THE CHILD INTO THE HOME OF THE PETITIONER
13 PURSUANT TO SUBSECTION (4).

14 (6) WHEN EVALUATING A REQUEST FOR APPROVAL TO PLACE A CHILD
15 IN THE HOME OF A PETITIONER PURSUANT TO SUBSECTION (4), THE CHILD
16 PLACING AGENCY OR COURT SHALL CONSIDER ALL OF THE FOLLOWING
17 FACTORS:

18 (A) THE MOTIVATION FOR THE ADOPTION.

19 (B) THE PARENTING ABILITY OF THE PETITIONER.

20 (C) THE EMOTIONAL STABILITY OF THE PETITIONER.

21 (D) THE COMPATIBILITY OF THE PETITIONER AND THE ADOPTEE.

22 (E) THE PROSPECTIVE ADOPTIVE FAMILY MEMBERS' ATTITUDES
23 TOWARD ACCEPTING AN ADOPTIVE CHILD.

24 (F) ALL CRIMINAL CONVICTIONS OF THE PETITIONER.

25 (G) CONSIDERING THE ADOPTEE'S AGE, SEX, AND OTHER CHARACTER-
26 ISTICS, WHETHER THE PROSPECTIVE ADOPTIVE FAMILY WILL BEST SERVE
27 THE NEEDS OF THE ADOPTEE, INCLUDING ANY SPECIAL NEEDS.

1 (7) IF A CHILD IS PLACED IN THE HOME OF A PETITIONER
2 PURSUANT TO SUBSECTION (4), THE PARENT WHO PLACED THE CHILD IN
3 THE HOME AND THE PETITIONER SHALL FILE A PETITION WITH THE COURT
4 FOR AN ORDER CONFIRMING THE PLACEMENT BEFORE THE EXPIRATION OF 7
5 DAYS AFTER THE DATE OF THE PLACEMENT, UNLESS THE COURT APPROVED
6 THE PLACEMENT PURSUANT TO SUBSECTION (5). IF THE COURT DENIES
7 THE PETITION FOR AN ORDER CONFIRMING THE PLACEMENT, THE COURT
8 SHALL ORDER THAT THE CHILD BE RETURNED TO THE PARENT WHO PLACED
9 THE CHILD IN THE PETITIONER'S HOME IF THE PARENT IS WILLING AND
10 ABLE TO ACCEPT THE RETURN OF THE CHILD. IF THE PARENT WHO PLACED
11 THE CHILD IN THE PETITIONER'S HOME IS NOT WILLING OR ABLE TO
12 ACCEPT THE RETURN OF THE CHILD, THE DEPARTMENT MAY FILE A PETI-
13 TION OF DEPENDENCY OR NEGLECT PURSUANT TO CHAPTER XIIA. PENDING
14 DISPOSITION OF THE DEPENDENCY OR NEGLECT PETITION, THE COURT MAY
15 ENTER AN ORDER AUTHORIZING TEMPORARY CARE OF THE CHILD.

16 (8) A PARENT WHO PLACES A CHILD IN A PETITIONER'S HOME PUR-
17 SUANT TO SUBSECTION (4) SHALL EXECUTE A WRITTEN INSTRUMENT
18 INVESTING THAT PETITIONER WITH AUTHORITY TO AUTHORIZE EMERGENCY
19 MEDICAL AND SURGICAL TREATMENT FOR THE CHILD. THE PARENT SHALL
20 AUTHORIZE ROUTINE, NONSURGICAL MEDICAL CARE AND NONEMERGENCY,
21 ELECTIVE SURGERY FOR THE CHILD.

22 (9) WHEN A CHILD IS PLACED IN THE HOME OF A PETITIONER PUR-
23 SUANT TO SUBSECTION (4), THE CHILD PLACING AGENCY THAT FILES THE
24 WRITTEN APPROVAL OF PLACEMENT PURSUANT TO SUBSECTION (4)(C) OR
25 THE COURT THAT APPROVED THE PLACEMENT PURSUANT TO SUBSECTION (5)
26 SHALL INFORM THE PETITIONER IN WHOSE HOME THE CHILD IS PLACED

1 THAT AN ADOPTION WILL NOT BE ORDERED UNTIL BOTH OF THE FOLLOWING
2 OCCUR:

3 (A) AN ORDER TERMINATING PARENTAL RIGHTS IS ENTERED PURSUANT
4 TO THIS CHAPTER OR CHAPTER XIIA.

5 (B) ONE OF THE FOLLOWING OCCURS:

6 (i) IF A PETITION FOR REHEARING IS GRANTED ON AN ORDER TER-
7 MINATING PARENTAL RIGHTS, THE ORDER IS NOT MODIFIED OR SET ASIDE
8 AT THE REHEARING, AND THE PERIOD FOR APPEAL AS OF RIGHT TO THE
9 COURT OF APPEALS EXPIRES WITHOUT AN APPEAL BEING FILED.

10 (ii) A PETITION FOR REHEARING IS DENIED ON AN ORDER TERMI-
11 NATING PARENTAL RIGHTS AND THE PERIOD FOR APPEAL AS OF RIGHT TO
12 THE COURT OF APPEALS EXPIRES WITHOUT AN APPEAL BEING FILED.

13 (iii) THE PERIOD FOR REQUESTING A REHEARING ON AN ORDER TER-
14 MINATING PARENTAL RIGHTS EXPIRES WITHOUT A PETITION BEING FILED
15 AND THE PERIOD FOR APPEAL AS OF RIGHT TO THE COURT OF APPEALS
16 EXPIRES WITHOUT AN APPEAL BEING FILED.

17 (iv) THERE IS A DECISION OF THE COURT OF APPEALS AFFIRMING
18 THE ORDER TERMINATING PARENTAL RIGHTS.

19 (10) BEFORE A PARENT PLACES A CHILD IN THE HOME OF A PETI-
20 TIONER PURSUANT TO SUBSECTION (4), THE PARENT OR HIS OR HER REP-
21 RESENTATIVE SHALL COMPILE A WRITTEN MEDICAL HISTORY REGARDING THE
22 CHILD AND DELIVER IT TO THE PETITIONER. THE MEDICAL HISTORY
23 SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT.

24 (11) ~~(3)~~ This section ~~shall~~ DOES not ~~be construed to~~
25 prevent a child placed in a licensed foster home from being
26 adopted by the foster parent or parents.

1 (12) ~~(4)~~ This section ~~shall~~ DOES not apply if the
2 petitioner for adoption is married to a parent having legal
3 custody of the child.

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

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

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

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

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

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

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

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

19 (b) By the duly authorized representative of the department
20 or of a child placing agency to whom the child has been per-
21 manently committed by an order of the juvenile division of the
22 probate court.

23 (c) By the juvenile division of the probate court having
24 permanent custody of the child.

25 (d) By the duly authorized representative of the department
26 or of a child placing agency to whom the child has been
27 released.

1 (e) By the guardian of the child, if a guardian has been
2 appointed.

3 (f) By the guardian of a parent.

4 (g) By the authorized representative of a child placing
5 agency of another state or country ~~which~~ THAT has THE authority
6 to consent to adoption.

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

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

13 (4) If the parent of the child to be adopted is an unemanci-
14 pated minor, that parent's consent is not valid unless a parent,
15 guardian, or guardian ad litem of that minor parent has also exe-
16 cuted the consent.

17 (5) The guardian of the child to be adopted shall not exe-
18 cute a consent to that child's adoption pursuant to subsection
19 (1) unless the guardian has first obtained authority to execute
20 the consent from the court ~~which~~ THAT appointed the guardian.

21 (6) The guardian of a parent shall not execute a consent to
22 the adoption of the parent's child pursuant to subsection (1)
23 unless the guardian has first obtained authority to execute the
24 consent from the court ~~which~~ THAT appointed the guardian. The
25 consent ~~shall have~~ HAS the same effect as if the consent were
26 executed by the parent.

1 (7) The parent of a child shall not execute a consent unless
2 1 OF the FOLLOWING APPLIES:

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

5 (B) THE PETITION FOR ADOPTION IS UNDER SECTION 24B OF THIS
6 CHAPTER.

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

15 Sec. 46. (1) ~~In~~ EXCEPT AS PROVIDED IN THIS SUBSECTION,
16 IN an adoption proceeding, the court shall direct a full investi-
17 gation by an employee or agent of the court, a child placing
18 agency, or the department. ~~The following shall be considered in~~
19 ~~the~~ IF A PETITION FOR ADOPTION IS FILED UNDER SECTION 24B OF
20 THIS CHAPTER, THE COURT SHALL DIRECT A FULL INVESTIGATION BY A
21 CHILD PLACING AGENCY. THE investigation IS TO CONSIDER ALL OF THE
22 FOLLOWING:

23 (a) The best interests of the adoptee.

24 (b) The adoptee's family background, including names and
25 identifying data regarding the parent or parents, if obtainable.

26 (c) The reasons for the adoptee's placement away from his or
27 her parent or parents.

1 (2) A written report of the investigation ~~shall~~ IS TO be
2 filed within 3 months of the order for investigation.

3 (3) IF A PETITION FOR ADOPTION IS FILED UNDER SECTION 24B OF
4 THIS CHAPTER, A CHILD PLACING AGENCY CONDUCTING AN INVESTIGATION
5 UNDER THIS SECTION SHALL OBTAIN A RECORD OF ALL CRIMINAL CONVIC-
6 TIONS OF THE PETITIONER AND INCLUDE THE RECORD OF CRIMINAL CON-
7 VICTIONS IN THE WRITTEN REPORT OF THE INVESTIGATION. A PETI-
8 TIONER UNDER SECTION 24B OF THE CHAPTER SHALL HAVE 2 SETS OF FIN-
9 GERPRINTS TAKEN. THE FIRST SET OF FINGERPRINTS IS TO BE TAKEN ON
10 FORMS FURNISHED BY THE DEPARTMENT OF STATE POLICE, AND THE SECOND
11 SET ON FORMS FURNISHED BY THE FEDERAL BUREAU OF INVESTIGATION.
12 THE FIRST SET OF FINGERPRINTS IS TO BE FORWARDED TO THE DEPART-
13 MENT OF STATE POLICE BY THE DEPARTMENT TAKING THE PRINTS. THE
14 FIRST SET OF FINGERPRINTS IS TO BE ACCOMPANIED BY WRITTEN
15 INSTRUCTIONS FROM THE PETITIONER IN THE FORM PRESCRIBED BY THE
16 DEPARTMENT OF STATE POLICE DIRECTING THE BUREAU OF IDENTIFICATION
17 OF THE DEPARTMENT OF STATE POLICE TO FORWARD A REPORT OF ALL
18 CRIMINAL CONVICTIONS OF THE PETITIONER TO A DESIGNATED CHILD
19 PLACING AGENCY CONDUCTING AN INVESTIGATION UNDER THIS SECTION.
20 THE SECOND SET IS TO BE FORWARDED BY THE DEPARTMENT TAKING THE
21 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION OR OTHER
22 AGENCY DESIGNATED BY THE FEDERAL BUREAU OF INVESTIGATION. THE
23 DIRECTOR OF THE BUREAU OF IDENTIFICATION OF THE DEPARTMENT OF
24 STATE POLICE SHALL COMPARE THE FINGERPRINTS WITH THOSE ALREADY ON
25 FILE IN THE BUREAU FOR ALL CRIMINAL CONVICTIONS OF THE
26 PETITIONER. UPON RECEIPT OF THE REPORT FROM THE FEDERAL BUREAU
27 OF INVESTIGATION OF THE COMPARISON, THE BUREAU OF IDENTIFICATION

1 OF THE DEPARTMENT OF STATE POLICE SHALL FORWARD A REPORT OF ALL
2 CRIMINAL CONVICTIONS BASED ON BOTH COMPARISONS TO THE DESIGNATED
3 CHILD PLACING AGENCY. AFTER THE BUREAU OF IDENTIFICATION OF THE
4 DEPARTMENT OF STATE POLICE FORWARDS THE REPORT OF ALL CRIMINAL
5 CONVICTIONS OF THE PETITIONER TO THE CHILD PLACING AGENCY, THE
6 FINGERPRINTS AND REPORTS RECEIVED UNDER THIS SECTION ARE TO BE
7 DESTROYED.

8 Sec. 51. (1) Not later than 14 days after receipt of the
9 report of investigation OR, IF THE PETITION FOR ADOPTION IS UNDER
10 SECTION 24B OF THIS CHAPTER AND THE INVESTIGATION REPORT WAS
11 FILED BEFORE THE BIRTH OF THE CHILD, NOT LATER THAN 14 DAYS AFTER
12 THE BIRTH OF THE CHILD, except as provided in subsections (2) and
13 (5), the judge of probate shall examine the report and shall
14 enter an order terminating the rights of the child's parent or
15 parents, if there was a parental consent, or the rights of any
16 person in loco parentis, if there was a consent by other than
17 parents, if the judge is satisfied as to both of the following:

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

20 (b) The best interests of the adoptee will be served by the
21 adoption.

22 (2) If it is necessary to hold a hearing before entering an
23 order terminating the rights of a parent, parents, or a person in
24 loco parentis, or if other good cause is shown, the time speci-
25 fied in subsection (1) ~~shall~~ IS TO be extended for an addi-
26 tional 14-day period.

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

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

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

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

12 (a) The other parent ~~—~~ having the ability to support ~~—~~
13 or assist in supporting ~~—~~ the child, has failed or neglected to
14 provide regular and substantial support for the child or if a
15 support order has been entered, THE OTHER PARENT has failed to
16 substantially comply with the order ~~—~~ for a period of 2 years
17 or more before the filing of the petition.

18 (b) The other parent ~~—~~ having the ability to visit, con-
19 tact, or communicate with the child ~~—~~ has regularly and sub-
20 stantially failed or neglected to do so for a period of 2 years
21 or more before the filing of the petition.

22 (7) Unless otherwise ordered by the court, the prospective
23 adoptive parents with whom a child is placed pursuant to a court
24 order under this section may ~~consent to~~ AUTHORIZE all medical,
25 surgical, psychological, educational, and related services for
26 the child.

1 Sec. 54. (1) Except for charges and fees approved by the
2 court, a person shall not offer, give, or receive any money or
3 other consideration or thing of value in connection with any of
4 the following: ~~—~~

5 (a) The placing of a child for adoption.

6 (b) The registration, recording, or communication of the
7 existence of a child available for adoption or the existence of a
8 person interested in adopting a child.

9 (c) A release.

10 (d) A consent.

11 (e) A petition.

12 (2) Before the entry of the final order of adoption, the
13 petitioner shall file with the court a sworn statement describing
14 money or other consideration or thing of value paid to or
15 exchanged by OR AGREED TO BE PAID TO OR EXCHANGED BY any party in
16 the adoption proceeding, including anyone consenting to the adop-
17 tion or adopting the adoptee, ~~any~~ A relative of a party or of
18 the adoptee, ~~any~~ A physician, attorney, social worker or member
19 of the clergy, and any other person, corporation, association, or
20 other organization. BEFORE THE ENTRY OF THE FINAL ORDER OF ADOP-
21 TION, EACH ATTORNEY WHO REPRESENTS ANY PARTY IN THE ADOPTION PRO-
22 CEEDING, IF ANY, SHALL FILE WITH THE COURT A SWORN STATEMENT
23 DESCRIBING MONEY OR OTHER CONSIDERATION OR THING OF VALUE PAID TO
24 OR EXCHANGED BY OR AGREED TO BE PAID TO OR EXCHANGED BY ANY PARTY
25 IN THE ADOPTION PROCEEDING THAT THE ATTORNEY HAS KNOWLEDGE OF,
26 INCLUDING ANYONE CONSENTING TO THE ADOPTION OR ADOPTING THE
27 ADOPTEE, A RELATIVE OF A PARTY OR OF THE ADOPTEE, A PHYSICIAN,

1 ATTORNEY, SOCIAL WORKER OR MEMBER OF THE CLERGY, AND ANY OTHER
2 PERSON, CORPORATION, ASSOCIATION, OR OTHER ORGANIZATION. The
3 court shall approve or disapprove fees and expenses. Acceptance
4 or retention of amounts in excess of those approved by the court
5 constitutes a violation of this section.

6 (3) To assure compliance with limitations imposed by this
7 section ~~—~~ AND by section 14 of Act No. 116 of the Public Acts
8 of 1973, being section 722.124 of the Michigan Compiled Laws,
9 ~~and by section 4 of Act No. 263 of the Public Acts of 1913, as~~
10 ~~amended, being section 331.404 of the Michigan Compiled Laws,~~
11 the court may require sworn testimony from persons who were
12 involved in any way in informing, notifying, exchanging informa-
13 tion, identifying, locating, assisting, or in any other way par-
14 ticipating in the contracts or arrangements ~~which,~~ THAT
15 directly or indirectly ~~—~~ led to placement of the person for
16 adoption.

17 (4) A PETITIONER WHO FILES A PETITION FOR ADOPTION UNDER
18 SECTION 24B OF THIS CHAPTER MAY PAY, AS APPROVED BY THE COURT,
19 THE ACTUAL AND REASONABLE ATTORNEY'S FEES OF THE BIOLOGICAL
20 MOTHER; MEDICAL EXPENSES FOR THE BIOLOGICAL MOTHER AND THE
21 ADOPTEE THAT ARE RELATED TO THE PREGNANCY OR THE BIRTH OF THE
22 ADOPTEE; AND PSYCHOLOGICAL COUNSELING EXPENSES FOR THE BIOLOGICAL
23 MOTHER THAT ARE DIRECTLY RELATED TO TERMINATION OF HER PARENTAL
24 RIGHTS UNTIL THE EXPIRATION OF 6 MONTHS AFTER THE DATE OF TERMI-
25 NATION OF HER PARENTAL RIGHTS. THE PAYMENT OF THE ATTORNEY'S
26 FEES, MEDICAL EXPENSES, OR COUNSELING EXPENSES SHALL BE MADE
27 DIRECTLY TO THE PERSON OR ENTITY WHO PROVIDED THE SERVICE.

1 (5) CONCURRENT WITH THE FILING OF THE PETITION FOR ADOPTION
2 UNDER SECTION 24B OF THIS CHAPTER, THE PETITIONER SHALL FILE WITH
3 THE COURT AN ITEMIZED STATEMENT OF ALL PAYMENTS OR TRANSFERS OF
4 ANY THING OF VALUE MADE OR AGREED TO BE MADE BY THE PETITIONER OR
5 ON BEHALF OF THE PETITIONER IN CONNECTION WITH THE BIRTH OF THE
6 CHILD, THE PLACEMENT OF THE CHILD WITH THE PETITIONER, THE MEDI-
7 CAL CARE RECEIVED BY THE CHILD, THE MEDICAL CARE RECEIVED BY THE
8 CHILD'S MOTHER RELATED TO THE PREGNANCY OR TO THE BIRTH OF THE
9 CHILD, THE LEGAL EXPENSES OF THE CHILD'S PARENT AND THE PETITION-
10 ER, AND ANY OTHER EXPENSES. THE STATEMENT IS TO INCLUDE BOTH OF
11 THE FOLLOWING:

12 (A) THE AMOUNT AND DATE OF EACH PAYMENT OR TRANSFER THAT HAS
13 BEEN MADE OR THAT HAS BEEN AGREED TO BE MADE.

14 (B) THE NAME AND ADDRESS OF EACH PERSON OR ORGANIZATION THAT
15 RECEIVED OR THAT WILL RECEIVE THE PAYMENT OR TRANSFER.

16 Sec. 62. (1) ~~if~~ EXCEPT AS PROVIDED IN SUBSECTION (2), IF
17 the court denies an order of adoption, the court may return the
18 child to the parents or original custodian and restore their
19 rights, or make a disposition appropriate for the welfare of the
20 ward as is authorized by section 18 of chapter ~~12a~~ XIIIA by an
21 ex parte order entered in the court.

22 (2) IF THE COURT DENIES AN ORDER OF ADOPTION ON A PETITION
23 FOR ADOPTION UNDER SECTION 24B OF THIS CHAPTER, THE COURT UPON
24 NOTICE AND HEARING SHALL ORDER THAT THE CHILD BE RETURNED TO THE
25 PARENT OR PARENTS WHO HAD CUSTODY OF THE CHILD AT THE TIME OF THE
26 ADOPTIVE PLACEMENT AND RESTORE PARENTAL RIGHTS TO THAT PARENT OR
27 PARENTS. HOWEVER, IF THE COURT DETERMINES THAT THE PARENT OR

1 PARENTS WHO HAD CUSTODY OF THE CHILD AT THE TIME OF THE ADOPTIVE
2 PLACEMENT DO NOT DESIRE TO HAVE PARENTAL RIGHTS RESTORED, UPON
3 NOTICE AND HEARING THE COURT MAY RETURN THE CHILD TO THE PARENT
4 WHO DID NOT HAVE CUSTODY OF THE CHILD AT THE TIME OF THE ADOPTIVE
5 PLACEMENT AND RESTORE HIS OR HER PARENTAL RIGHTS, OR MAKE A DIS-
6 POSITION APPROPRIATE FOR THE WELFARE OF THE WARD AS AUTHORIZED BY
7 SECTION 18 OF CHAPTER XIIA.

8 Section 2. This amendatory act shall not take effect unless
9 Senate Bill No. _____ or House Bill No. 4417 (request
10 no. 01529'91) of the 86th Legislature is enacted into law.